

PUBLIC INDECENCY ORDINANCE
TOWN OF DOVER-FOXCROFT

June 1995

Certified by:

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Approved June 26, 1995

Barbara J. Moore
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PUBLIC INDECENCY ORDINANCE

OF THE

TOWN OF DOVER-FOXCROFT, MAINE

Section 1. Purpose.

The two purposes of this ordinance are (1) to prohibit certain acts of commercial exploitation of human sexuality in commercial or business establishments within the Town of Dover-Foxcroft in order to reduce the likelihood of criminal activity, moral degradation, sexually transmitted diseases and disturbances of the peace and good order of the community which may occur when such commercial exploitation is permitted in such places, and (2) to protect the health, safety, welfare and morals of the community by using the government's recognized and traditional police power to protect societal order, morality and physical and emotional health without infringing on protected First Amendment rights.

Section 2. Definitions.

For the purposes of this section, the following definitions apply:

- A. Sexual intercourse means any penetration of the female sex organ by the male sex organ. Emission is not required.
- B. Sexual act means any act of sexual gratification between 2 persons involving direct physical contact between the sex organs of one and the mouth or anus of the other or direct physical contact between the sex organs of one and the sex organs of the other, or direct physical contact between the sex organs of one and an instrument or device manipulated by the other. A sexual act may be proved without allegation or proof of penetration.
- C. Sexual contact means any touching of the genitals, directly or through clothing, other than as would constitute a sexual act, for the purpose of arousing or gratifying sexual desire.
- D. Nudity means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque

covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

- E. Public place means a place to which the public at large or a substantial group has access, including but not limited to commercial or business establishments, public ways, schools, government-owned facilities, and the lobbies, hallways, and basement portions of apartment houses, hotels, motels, public buildings and transportation terminals.
- F. Public indecency means the knowing or intentional commission of an act of sexual intercourse, a sexual act, sexual contact or nudity in a public place.

Section 3. Public Indecency Prohibited.

- A. Engaging in public indecency is prohibited.
- B. Encouraging or permitting another person or persons to engage in an act or acts of public indecency by the person who or entity which owns, leases or otherwise controls a premises on which the act or acts of public indecency occur(s) is prohibited.

Section 4. Penalties.

- A. The violation of any provision of this Article shall be punished by a fine not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the Town may enjoin or abate any violation of this Article by appropriate action, including but not limited to revocation of any Town license for a premises or commercial or business establishment in which the public indecency occurs.
- B. If the Town is the prevailing party in any action brought to enforce this ordinance, the Town must be awarded reasonable attorneys' fees, expert witness fees, and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.

Section 5. Severability.

If any section, phrase, sentence or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

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