

or her dog on any street, sidewalk, park, playground, parking lot, or any other publicly owned or leased property by the Town of Madawaska."

### **SECTION 3. Penalties for Violation**

Effective July 1, 1997, violation of this ordinance shall be punished by a civil penalty not to exceed \$10.00 for the first offense and \$25.00 thereafter for each reoccurrence.

### **SECTION 4. Exemption**

This regulation shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this ordinance.

RECOMMENDED BY BOARD OF SELECTMEN

Article 54. Shall an ordinance entitled "Public Indecency" be enacted as follows:

**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 Madawaska 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 in public places 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 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 the hand of another, or between the sex organs of one and an instrument or devise 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, other than nudity in a dressing room, locker room, shower, rest-room, or other changing or lavatory facility set off and marked as such, 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 discernible 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, as well as non-profit recreational facilities and clubs, including, but not limited to, health clubs, gymnasiums, spas, hot tub centers, relaxation clubs, swimming pools, open to the membership by members of the public.

(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.

(g) Commercial or business establishments include but are not limited to: companies, firms, corporations, stores, shops, malls, markets, clubs, bars, saloons, restaurants or dining facilities, recreational facilities, swimming pools, gymnasiums, health clubs, spas, hot tub centers, relaxation centers, etc.

### **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.** 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 municipality may enjoin or abate any violation of this article by appropriate action, including but not limited to revocation of any municipal license for a premises or commercial or business establishment in which the public indecency occurs.

**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.

**SECTION 6. NURSING WOMEN.** Notwithstanding any Municipal ordinance to the contrary, no municipal ordinance shall prohibit, or be interpreted or construed to prohibit or regulate, women from nursing or breast-feeding in public or private.

RECOMMENDED BY THE BOARD OF SELECTMEN

Article 55. Shall an ordinance entitled "Paid Sexual Contact" be enacted as follows:

**SECTION 1. DEFINITIONS.** For the purposes of this article, the following definitions apply:

- (a) Sexual contact means any touching of the genitals, directly or through clothing, for the purpose of arousing or gratifying sexual desire.
- (b) Pecuniary benefits means any direct or indirect payment of money or any other object of value.

**SECTION 2. SEXUAL CONTACT FOR PECUNIARY BENEFIT PROHIBITED.**

- (a) Engaging in, or agreeing to engage in, or offering to engage in sexual contact in return for a pecuniary benefit to be received by the person engaging in the sexual contact or by a third person is prohibited.
- (b) Providing or agreeing to provide a person for purposes of engaging in sexual contact in return for a pecuniary benefit to be received by the person engaging in the sexual contact or by a third person is prohibited.
- (c) Causing or aiding another person to engage in sexual contact in return for a pecuniary benefit to be received by the person engaging in the sexual contact or by a third person is prohibited.
- (d) Leasing or otherwise permitting a place controlled by the defendant in any action to enforce this article, alone or in association with other, to be used as a site for sexual contact for pecuniary benefit to any person is prohibited.

**SECTION 3. PENALTIES.** 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 Municipality may enjoin or abate any violation of this article by appropriate action, including but not limited to revocation of any municipal license for a premises or business in which sexual contract for pecuniary benefit is transacted.

**SECTION 4. SEVERABILITY.** If any section, phrase, sentence or portion of the 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.

RECOMMENDED BY BOARD OF SELECTMEN

ART. 54

MOTIONED BY: GINETTE ALBERT  
SECONDED BY: PEGGY RUEST

SO VOTED.

ART. 55

MOTIONED BY: NORMAN CYR  
SECONDED BY: GINETTE ALBERT

SO VOTED.

MOTION TO ADJOURN BY: EDWARD MARSHALL  
SECONDED BY: GINETTE ALBERT

SO VOTED.

MEETING ADJOURNED AT 10:20 PM  
COPIED BY: RINETTE MADORE, DEPUTY TOWN CLERK

JUNE 18, 1997