

# Town of Bridgton

## Ordinance Controlling Nudity in Commercial or Business Activities Not Requiring a Special Amusement Permit



Enacted 06/14/2011  
Amended 06/08/2021

## **ORDINANCE CONTROLLING NUDITY IN COMMERCIAL OR BUSINESS ACTIVITIES NOT REQUIRING A SPECIAL AMUSEMENT PERMIT**

### **ARTICLE I. PURPOSE**

The purpose of this Ordinance is to regulate nudity as a form of commercial or business exploitation and to regulate dress as a form of conduct in commercial or business activities other than those which require a special amusement permit, based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Town, and on findings incorporated in the cases of *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, (1986); *Iacobucci v. City of Newport, Ky*, 479 U.S. 92 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *California v. LaRue*, 409 U.S. 109 (1972); *United States v. O'Brien*, 391 U.S. 367 (1968); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir.1997); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir.1986); *Hang On, Inc. v. City of Arlington*., 65 F.3d 1248 (5th Cir.1995); *South Florida Free Beaches, Inc. v. City of Miami*, 734 F.2d 608 (11th Cir.1984); and *N.W. Enterprises v. City of Houston*, 27 F.Supp. 2d 754 (S.D. Tex.1998)), as well as studies conducted in other municipalities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and findings reported in the Final Report of the Attorney General's Commission on Pornography (1986), the Report of the Attorney General's Working Group On the Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention. The purpose of this Ordinance is not to impede the free exchange and expression of ideas or to prohibit the activity of breast feeding of children. The conduct regulated by this Ordinance is that which the community and Select Board in public meetings have clearly found to be offensive to the general welfare, public safety, and order of the Town of Bridgton and its citizens.

### **ARTICLE II. AUTHORITY**

This Ordinance is adopted and hereafter amended pursuant to 30-A M.R.S. § 3001 *et seq.*, 17-A M.R.S. § 854, and 17 M.R.S. §§ 2911-2913.

### **ARTICLE III. ADMINISTRATION**

This Ordinance shall be administered by the Town of Bridgton Police Chief (the "Police Chief") and the Town of Bridgton Code Enforcement Officer ("the Code Enforcement Officer").

### **ARTICLE IV. DEFINITIONS**

**Section 4.1 - Theater.** As used in this Ordinance, "theater" means (a) a building, playhouse, hall or other place having a permanent stage upon which movable scenery and theatrical or vaudeville or similar performances are given and permanently affixed seats so arranged that a body of spectators can have an unobstructed view of the stage, or (b) a building, room, hall, or other place whose primary function is to present movies or motion pictures and which has a permanent movie screen and permanently affixed seats so arranged that a body of spectators can have an unobstructed view of said screen, or (c) an open-air or "drive-in" movie having a permanently affixed movie screen and permanently affixed devices for broadcasting the soundtracks of movies or motion pictures inside of the patrons' vehicles, (d) coffee houses, dinner theaters, or (e) similar establishments that host theatrical performances which may contain occasional nudity by bona fide stage actors during the course of those theatrical performances.

**Section 4.2 - Museum, Art Gallery.** As used in this Ordinance, "museum or art gallery" means any building or space within a building, interior or exterior display or any other location that serves the purpose of procuring, displaying, caring for and studying of objects, whether they be prints, paintings or items in three dimension such as sculptures, all of lasting interest or value.

**Section 4.3 - Sales Person, Waiter, Waitress and Entertainer.** A person shall be deemed a sales person, waiter, waitress or entertainer if such person acts in that capacity, without regard to whether or not such person is paid any compensation by the management of the business in which the activity is performed.

**Section 4.4 - Expose.** "Expose" or "exposed" means unclothed or uncostumed or not covered by fully opaque cloth or textile material.

**Section 4.5 - Business** means any retail establishment offering food, beverages, merchandise, products or services for sale to members of the general public, operated as a for-profit business and treated as such for federal or state tax purposes.

**Section 4.6 – Patron** means a customer of the business or a person from the general public, not an employee or owner of the business, who is on the premises to obtain, receive, or view the products, services, or live performances offered by the business.

**Section 4.7 – Semi-nude** means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breasts, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

**Section 4.8 – Semi-nude expressive dance or performance** means an expressive dance or performance that is not obscene and in which the state of undress is a part of the communicative aspect of the dance or performance.

**Section 4.9 – Explicit body parts** means a person's genitals, pubic hair, buttocks, perineum or anus, or any portion of the female breast at or below the areola thereof. This definition shall

include exposure of the lower portion of the female breasts, but shall not include any portion of the cleavage of the female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar apparel provided the areola is not exposed in whole or in part.

## **ARTICLE V. PROHIBITIONS**

**Section 5.1.** – It shall be unlawful for a person who, while acting as a sales person, waiter, waitress, entertainer or in any other capacity as an owner, manager, or employee in a business to knowingly expose his or her explicit body parts, or to employ any device or covering which is intended to give the appearance of or to simulate explicit body parts.

**Section 5.2.** It shall be unlawful for a person to cause, permit, procure, counsel, or assist any person to expose himself or herself as prohibited by Section 5.1 of this Ordinance.

**Section 5.3.** It shall be unlawful for a person operating a business to, at said place of business, display, cause, or permit the display of photographs, covers of magazines, newspapers, films, video, or other printed or visual media which are visible to the general public using the sidewalks, streets, highways, or in an area open to minors, which expose or show explicit body parts and which, each taken as a whole, lacks serious literary, artistic, political or scientific value and is patently offensive because it affronts prevailing standards in the adult community as a whole with respect to what is suitable material for minors.

## **ARTICLE VI. EXCEPTIONS**

**Section 6.1.** Sections 5.1 and 5.2 of this Ordinance do not apply to a theater, museum, art gallery, or similar establishment which is primarily devoted to theatrical performances, the presentation of movies or the displaying of art in any medium.

**Section 6.2.** Sections 5.1 to 5.3 of this Ordinance do not apply to an educational institution, hospital, clinic, physician's office, or medical treatment facility.

**Section 6.3.** Section 5.1 and 5.2 of this Ordinance do not prohibit a semi-nude expressive dance or performance which satisfies the following requirements:

- a) The semi-nude expressive dance or performance occurs at least six (6) feet from any patron
- b) There is no contact between the person engaged in the expressive semi-nude dance or performance and any patron
- c) The semi-nude dance or performance occurs in a room of at least six hundred (600) square feet
- d) The business at which the semi-nude expressive dance or performance occurs does not require a special amusement permit and does not sell, serve, or give away alcohol to any patron incidental to or within twenty-four (24) hours of the semi-nude dance or performance.

**Section 6.4** – This Ordinance does not apply to any act expressly permitted or expressly prohibited by any statute of the State of Maine.

**Section 6.5** – This Ordinance does not apply to the exposure of the female breast incident to breast feeding children.

## **ARTICLE VII. ENFORCEMENT**

This Ordinance shall be enforced by the Town of Bridgton Police Department and Code Enforcement Officer.

## **ARTICLE VIII. PENALTY**

**Section 8.1** - Any act made unlawful by this Ordinance and any violation of this Ordinance shall be punishable by a fine of not more than \$500 (five hundred) for the first offense and for each offense thereafter in the same 12 month period, \$1000. Each day that such unlawful act or violation continues shall be considered a separate offense. Section 5.2 - In addition to any other penalty provided by the law, the commission of acts prohibited by this Ordinance shall constitute a nuisance and may be abated by the town seeking an injunction to prohibit further and continued violation thereof.

## **ARTICLE IX. SEVERABILITY**

**Section 9.1.** Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

Enacted: June 14, 2011  
Amended: June 8, 2021