**TOWN OF ST. ALBANS**

**OBSCENITY ORDINANCE**

**SECTION 1.  PURPOSE AND AUTHORITY**

To prohibit certain acts of commercial exploitation of human sexuality within the Town of St. Albans 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 to protect the health, safety, welfare and morals of the community by using the government's recognized and traditional enforcement power to protect societal order, morality, and physical and emotional health in public places without infringing on protected First Amendment rights.

This ordinance is enacted pursuant to municipal home rule authority, Title 30-A M.R.S.A. 3001and Title 30-A M.R.S.A. 3014.

**SECTION 2. DEFINITIONS**

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

Public Indecency means the knowing or intentional commission of a sexual act, sexual contact or nudity in a public place.

Nudity means the showing of the human male or female genitals.

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.

Sexual Act means any act of sexual gratification between two or more 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 allegations or proof of penetration.

Sexual Contact means any touching of the genitals, directly or through clothing, other than would constitute a sexual act, for the purpose of arousing or gratifying sexual desire.

**SECTION 3. PUBLIC INDECENCY PROHIBITED**

Engaging in public indecency in return for pecuniary benefit is prohibited.

Engaging in or encouraging or permitting another person to engage in an act or acts of public indecency in return for pecuniary benefit by the person who or entity which owns, leases or otherwise controls a premises on which the act or acts of public indecency occurs is also prohibited.

**SECTION 4. NURSING WOMEN**

This Town ordinance shall not prohibit, or be interpreted or construed to prohibit or regulate, women from nursing or breast feeding in public or private.

**SECTION 5.  RESTRICTION ON RESIDENCE OF CONVICTED SEX OFFENDERS**

Convicted sex offender. A person convicted of any current or former Maine crime listed in former title 17, §§ 2922—2924 or title 17-A,[chapter 11](http://library.municode.com/HTML/12125/level2/PTIICOOR_CH11MOHOMOHOPA.html#PTIICOOR_CH11MOHOMOHOPA) or 12; a conviction for an attempt or solicitation of those listed crimes; or any conviction for any former or current crime in any other jurisdiction in which the person engaged in substantially similar conduct to that of the earlier specified current or former Maine crimes.

Prohibition. A convicted sex offender whose crime involved a victim who had not attained the age of 14 years at the time of the offense may not establish a residence within seven hundred fifty (750) feet of the real property line of a public or private elementary, middle or secondary school or within seven hundred fifty (750) feet of the real property line of municipally owned property where children are the primary users, including, without limitation, playgrounds and athletic fields. The prohibition of this section shall not apply to persons who, on the date of adoption of this section, resided within the seven hundred fifty (750) foot restricted areas.

Penalties. Any person who, after written notice from the Town, fails or refuses to comply with its requirements of this section shall be subject to a minimum penalty of five hundred dollars ($500.00) per day payable to the Town. In addition to monetary penalties, the Town may seek injunctive relief from the courts.  If the Town prevails in an action for violation of this section, it shall be entitled to its reasonable attorney’s fees and costs.

**SECTION 6. PENALTIES**

The violation of this ordinance shall be punishable by a fine of five hundred dollars ($500.00) for a first offense, one thousand dollars ($1,000.00) for a second offense, and two thousand dollars ($2,000.00) for a third or subsequent offense, regardless of the time between offenses. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalties, the town may enjoin or abate any violation of this ordinance by appropriate action, and, if the court finds for the town, the town shall recover its costs of suit, including reasonable experts' fees, reasonable attorneys' fees, and reasonable investigative costs.

**SECTION 7. SEVERABILITY**

If any section, phrase, sentence, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of any other section, phrase, sentence, or portion thereof.

Adopted March 7, 1998 - Annual Town Meeting. Revised and Updated Annual Town Meeting March 2, 2013 (Section 5 added)

Signatures of the Board of Selectmen, March 11, 2013. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_   \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_