

# WILMINGTON PUBLIC INDECENCY ORDINANCE OF 2002

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## **Section 1. Statutory Authority.**

This ordinance is enacted pursuant to the authority granted the Town to promote the public health, safety, welfare, and convenience contained in 24 V.S.A. § 2291. This ordinance shall be a civil ordinance within the meaning of 24 V.S.A. Chapter 59.

## **Section 2. Statement of Purpose.**

It is the purpose of this ordinance to regulate public indecency, including public nudity, which is deemed to be a public nuisance.

## **Section 3. Definitions.**

“Nudity” shall mean the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion of the nipple, or the depiction of covered male genitals in a discernibly turgid state. A woman breastfeeding her child, irrespective of whether her breast is covered, shall not be considered to be in a state of nudity.

## **Section 4. Public Indecency.**

a. No person shall knowingly or intentionally in a public place:

1. engage in sexual intercourse;
2. appear in a state of nudity;
3. fondle his/her genitals; or
4. fondle the genitals of another person.

b. No person who owns, leases or controls property shall knowingly allow any person to engage in the conduct described in subparagraph a. above at any time such property is open to the public.

**Section 5. Enforcement.**

Any person who violates a provision of this civil ordinance shall be subject to a civil penalty of up to \$500 per day for each day that such violation continues. Police Officers of the Town of Wilmington shall be authorized to act as Issuing Municipal Officials to issue and pursue before the Traffic and Municipal Ordinance Bureau a municipal complaint.

**Section 6. Waiver Fee.**

An Issuing Municipal Official is authorized to recover a waiver fee, in lieu of a civil penalty, in the following amount, for any person who declines to contest a municipal complaint and pays the waiver fee:

First offense -----	\$50
Second offense-----	\$125
Third offense -----	\$200
Fourth offense -----	\$275
Fifth and subsequent offenses ----	\$350

Offenses shall be counted on a calendar year basis.

**Section 7 . Civil Penalties.**

An Issuing Municipal Official is authorized to recover civil penalties in the following amounts for each violation:

First offense -----	\$100
Second offense-----	\$200
Third offense -----	\$300
Fourth offense -----	\$400
Fifth and subsequent offenses ----	\$500

Offenses shall be counted on a calendar year basis.

**Section 8. Other.**

In addition to the enforcement procedures available before the Traffic and Municipal Ordinance Bureau, the Town Manager is authorized to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law.

**Section 9. Severability**

If any section, subsection, or any part thereof, is for any reason held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof.

**Section 10. Publication and Posting**

This Ordinance shall be entered in the Selectboard minutes, filed with the Town Clerk, and posted in at least five (5) conspicuous places within the Town. A copy of this Ordinance shall be published in the Deerfield Valley News, not later than fourteen (14) days following the date specified below when this Ordinance is adopted.

**Section 11. Information**

The Wilmington Town Manager, Sonia Alexander, whose telephone number is 464-8591, and whose address is Box 217, Wilmington, VT 05363, is a person knowledgeable about the Ordinance and is available to answer questions and provide persons with a full text thereof.

**Section 12. Right to Petition**

Citizens of the Town of Wilmington are further hereby notified that within forty-four (44) days from the date of adoption they may petition for a vote on the above Ordinance at an annual or special town meeting as provided in 24 VSA 1973.

**Section 13. Adoption/Effective Date**

This Ordinance is hereby adopted by the Selectboard of the Town of Wilmington on this the 12<sup>th</sup> day of June, 2002, and shall become effective upon sixty (60) days from this date. unless a petition is filed within forty-four (44) days as provided by law.

**Section 14. Recording**

This Ordinance shall be recorded by the Town Clerk in the Records of the Municipality.

**WILMINGTON SELECTBOARD**

Fred J. Skwirut, Chair

Michael B. Penson

Paul Kasanoff

John Redd

Robert D. Wheeler