

**CHAPTER 215**  
**Ordinance Requiring Licenses for Viewing Booths**  
**in Adult Businesses**  
**TOWN OF GRAY, MAINE**  
**ADOPTED NOVEMBER 2, 1993**

**SECTION 1- TITLE AND PURPOSE**

This ordinance shall be known and be cited as the Ordinance Requiring Licenses for Viewing Booths in Adult Businesses.

The Gray Town Council has observed the experiences of other communities, as reported in court decisions, in the press and in other literature, concerning the potential public health risks of so-called "viewing booths" in so-called "adult bookstores", in particular the risk that such viewing booths, if not properly regulated, may encourage acts of prostitution and the commission of other sexual acts which could promote the transmission of Acquired Deficiency Syndrome and other sexually transmitted diseases; and Town Council concludes that in order to preserve the public health, safety and welfare as well as to protect the health of patrons of such viewing booths, it is necessary to regulate the design and configuration of such viewing booths so as to discourage the potentially dangerous activity.

**SECTION 2 – DEFINITIONS**

- A. "Adult Business" means any business, a substantial or a significant portion of which consists of selling, renting, leasing, exhibiting, displaying or otherwise dealing in materials which depict or describe any of the following:
1. Human genitals in a state of sexual stimulation or arousal;
  2. Acts of human masturbation, sexual intercourse or sodomy;
  3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast;
  4. Less than completely and opaquely covered;
    - a) human genitals, pubic region,
    - b) buttock,
    - c) female breast below a point immediately above the top of the areaola; and
  5. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

As applied to a business which sells, rents, or leases such materials or devices, "substantial or significant portion" means that 25% or more of the floor area of the unit of occupancy in which the business is located is used to display, shelve or store such materials or devices. As applied

to a business which exhibits or displays films, videos or similar visual reproductions for viewing by patrons on the premises, “substantial or significant portion” means that, in any single day, 50% or more of the total display of exhibition time is devoted to such materials.

- B. “Viewing Booth” means any booth, cubicle, room or stall within the premises of an adult business used to display by audio or visual reproduction, projection or other means, any of the materials described in subparagraph (A) above.

### **SECTION 3- LICENSE REQUIRED**

No person owning or operating an adult business shall keep for public patronage or permit or allow the use of any viewing booth without first obtaining a license from the Gray Town Council.

### **SECTION 4 – LICENSING REQUIREMENT**

The Town Council shall grant a license for a viewing booth only upon finding, after public hearing, that the viewing booth will be clearly visible from the interior common areas of the premises and that visibility into the viewing booth shall not be blocked or obscured by any doors, curtains, partitions, drapes, or any other obstruction.

### **SECTION 5 – LICENSE FEE**

A separate license shall be required for each viewing booth based upon the number of audio or visual reproduction or projection devices. The fee for each reproduction or projection device shall be \$200.

### **SECTION 6 – TERM OF LICENSE**

Licenses issued pursuant to this Ordinance shall be for a term of no more than one year and shall expire annually on September 30.

### **SECTION 7 – SUSPENSION OR REVOCATION OF LICENSE**

The Town Council may, after notice to the licensee and a hearing, suspend or revoke any viewing booth license issued under this Ordinance upon a finding that the licensee has violated any of the provisions of this Ordinance.

## **SECTION 8 – ENFORCEMENT**

The Code Enforcement Officer shall be responsible for the enforcement of this Ordinance. Any enforcement actions shall be brought in the name of the Town of Gray.

## **SECTION 9 – PENALTY**

The violation of any provision of this Ordinance shall be punished by a civil penalty of not less than \$500 and not more than \$1,000 for each offense. Each act of violation and every day upon which any such violation occurs shall constitute a separate offense. In addition to such civil penalty, the Town may enjoin or abate any violation of this Ordinance by appropriate action.

## **SECTION 10 – SEVERABILITY**

In the event that any section or any portion of the Ordinance shall be declared by any competent court to be invalid for any reason, such declaration shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance.

## **SECTION 11 – APPLICABILITY TO PENDING APPLICATIONS**

Notwithstanding anything to the contrary in 1 M.R.S.A., Section 302, the provision of this Ordinance shall apply to any application, request or proposal to locate or operate any viewing booth which may be pending on the effective date of this Ordinance.