

CHAPTER 216
ORDINANCE REGULATING OBSCENE MATERIAL
TOWN OF GRAY MAINE
Adopted November 2, 1993

SECTION 216.1 – TITLE

This ordinance shall be known and be cited as an Ordinance Regulating Obscene Material.

SECTION 216.2 – DEFINITIONS

As used in this ordinance, the following words shall have the following meanings:

- A. Material: Anything tangible that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound, or in any other manner, but does not include an actual three-dimensional obscene device.
- B. Obscene: Material or a performance that:
 - 1. The average person, applying contemporary community standards, would find that taken as a whole appeal to the prurient interest in sex;
 - 2. Depicts or describes:
 - a. Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or stimulated, including sexual intercourse, sodomy, and sexual beastiality; or
 - b. Patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd, exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs and;
 - 3. Taken as a whole, lacks serious literary, artistic, political or scientific value.
- C. Obscene Device: A device including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs.
- D. Patently Offensive: So offensive, on its face as to be intolerable to the average person, applying contemporary community standards.
- E. Performance means a play, motion picture, dance, or other exhibition performed before an audience.
- F. Promote: To manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.
- G. Purient Interest in Sex: A shameful or morbid interest in sex.
- H. Wholesale Promote: To manufacture, issue, sell, provide, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purpose of resale.

SECTION 216.3 – WHOLESALE PROMOTION OF OBSCENE MATERIAL OR DEVICES

- A. A person commits an offense if, knowing its content and character, he wholesale promotes or possesses with intent to wholesale promote any obscene material or obscene device.
- B. A person commits an offense if, knowing its content and character, he:
 - 1. Promotes or possesses with intent to promote any obscene material or obscene device; or

2. Produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity.
- C. A person who promotes or wholesale promotes obscene material or an obscene device or possesses the same with intent to promote or wholesale promote it, in the course of his business is presumed to do so with knowledge of its content and character.
- D. A person who possesses six (6) or more obscene devices or six (6) or more obscene articles, whether such devices or articles are similar or identical, is presumed to possess them with intent to promote the same.
- E. This section does not apply to a person who possesses or distributes obscene material or obscene devices or participates in conduct otherwise prescribed by this section when the possession, participation, or conduct occurs in the course of law enforcement activities.

SECTION 216.4 – ENFORCEMENT

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

SECTION 216.5 – 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 216.6 – VALIDITY

If any of the depictions or descriptions of sexual conduct described in this Ordinance are declared by a court of competent jurisdiction to be unlawfully included herein, this declaration shall not invalidate this Ordinance as to other patently offensive sexual conduct included herein.