

AN ORDINANCE REGULATING OBSCENE MATERIAL

TOWN OF NEW GLOUCESTER, MAINE

SECTION I - TITLE

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

SECTION 2 - DEFINITIONS

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

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.

Obscene: Material or a performance that:

1. The average person, applying contemporary community standards, would find that taken as a whole appeals 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 simulated, including sexual intercourse, sodomy, and sexual bestiality; 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.

Obscene Device: A device including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs.

Patently Offensive: So offensive, on its face as to be intolerable to the average person,

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Applying contemporary community standards.

Performance means a play, motion picture, dance, or other exhibition performed before an audience.

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.

Prurient Interest in Sex: A shameful or morbid interest in sex.

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 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 wholesales 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.

E. This section does not apply to a person who possesses or distributes obscene material or obscene devices or participates in conduct otherwise proscribed by this section when the possession, participation, or conduct occurs in the course of law enforcement activities.

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SECTION 4 - 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 New Gloucester.

SECTION 5 - PENALTY

Any person, firm or corporation who violates any of the provisions of this ordinance, commits a civil violation and shall be liable for a civil penalty of not less than \$100.00 nor more than \$2,500.00 for each violation. Each day such a violation continues to exist after notification thereof, shall constitute a separate offense. All fines collected hereunder are payable to the Citizens of the Town of New Gloucester (Maine). In addition to such civil penalty, the Town may enjoin or abate any violation of this ordinance by appropriate action.

SECTION 6 - SEVERABILITY

If any provision of this Ordinance is held invalid by a court of competent jurisdiction, such ruling shall not affect the remaining provisions which shall remain in full force and effect.