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SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

AMENDED ORDINANCE NO. 09-130

RELATING TO ADULT ENTERTAINMENT AND SALES PRACTICES; PROVIDING FOR LICENSING AND REGULATION OF BUSINESSES WHOSE EMPLOYEES DISPLAY CERTAIN BODY PARTS; ADOPTING STANDARDS OF CONDUCT AND PROVIDING FOR ENFORCEMENT AND OTHER MATTERS; AMENDING SCC 6.30.010, 6.30.045, 6.30.050, 6.30.055, AND 6.30.060; ADDING NEW SECTIONS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Supreme Court has recognized the right of local governments to regulate or prohibit offensive conduct in public places, including public nudity and lewd conduct, subject to appropriate safeguards against unwarranted infringement on protected expression; and

WHEREAS, the Snohomish County Council, Sheriff, Auditor, and other county officers have received increasing numbers of complaints of offensive conduct associated with retail businesses that employ partially nude service personnel, which have included complaints of prostitution, sexual contacts, lewd acts, and other offensive conduct; and

WHEREAS, such conduct has had and is likely to have negative impacts on the community, including but not limited to criminal activities, disruption of nearby business activities and expectations, changes in commuter patterns to avoid exposure of minor children, exploitation of female employees, exposure of minors to conduct that is appropriate only for adults, and degradation of community standards; and

WHEREAS, the County Council intends by this ordinance to protect the public health, safety, and welfare by providing for licensing and regulation of retail sales practices involving partially nude conduct as adult entertainment, by imposing standards of conduct, and by adding provisions relating to enforcement and other matters; and

WHEREAS, this ordinance does not reduce or eliminate prohibitions of public nudity contained in Chapter 10.04 SCC or other laws, or prohibit nudity in the context of adult entertainment dance studios, adult escort businesses, or nude house cleaning businesses operating pursuant to Chapters 6.25 or 6.30 SCC;

NOW, THEREFORE, BE IT ORDAINED:

Section 1. Snohomish County Code Section 6.30.010, adopted by Ordinance No. 96-044 on June 24, 1996, is amended to read:

ORDINANCE NO. 09-130
RELATING TO ADULT ENTERTAINMENT AND SALES PRACTICES; PROVIDING FOR LICENSING AND REGULATION OF BUSINESSES WHOSE EMPLOYEES DISPLAY CERTAIN BODY PARTS; ADOPTING STANDARDS OF CONDUCT, ETC. - 1

1 **6.30.010 Definitions.**

2 In addition to the definitions contained in SCC 6.01.010 the words and
3 phrases in this ~~((section))~~ chapter, unless the context otherwise indicates, shall have
4 the following meanings:

5 (1) "Adult entertainment" means ~~((an))~~:

6 ~~(a) Any~~ (a) Any exhibition, performance or medium which is distinguished or
7 characterized by (:

8 ~~(a) Acts of masturbation, sexual intercourse or sodomy; or~~

9 ~~(b) Fondling or other touching of the human genitals, pubic region, buttocks~~
10 ~~or female breast; or~~

11 ~~(c) Human genitals in a state of sexual stimulation or arousal; or~~

12 ~~(d) Displays))~~ (d) displays of less than completely and opaquely covered human
13 genitals, pubic hair, pubic ((areas)) area, perineum, anus, buttocks, or female breast
14 below the top of the areola; or

15 ~~((e) Human male genitals in a discernibly turgid state even if completely~~
16 ~~covered; or~~

17 ~~(f))~~ (b) Any exhibition, performance or dance conducted in a premises where
18 such exhibition, performance or dance is performed within the view of one or more
19 members of the public and is intended or is likely to sexually stimulate any member
20 of the public.

21 (2) "Adult entertainment book store" means any business from which minors
22 are excluded and in which the purchase, rental, viewing or use of books, magazines,
23 newspapers, movie films, devices, slides, or other photographic or written
24 reproductions distinguished or characterized by their emphasis on matter depicting,
25 describing, or relating to adult entertainment or adult entertainment material make up
26 25% or more of the stock in trade.

27 (3) "Adult entertainment business" means any establishment or premises,
28 other than a business subject to chapter 6.25 or 6.28 SCC, which:

29 (a) Engages in an adult sales practice; or

30 (b) ((has)) Has at least 25% of its trade in the display, barter, rental, or sale
31 of a medium which meets the criteria of adult entertainment as defined by this
32 chapter ~~((and includes)),~~ including but ~~((is))~~ not limited to: adult entertainment
33 bookstores, adult entertainment movie theaters, adult tanning salons, escort
34 businesses and nude house cleaning businesses.

35 (4) "Adult hotel" means a hotel, motel, or similar commercial establishment
36 which offers a sleeping room for rent for a period of time less than 10 hours or allows
37 a tenant or occupant of a sleeping room to sub-rent the room for a period of time that
38 is less than 10 hours.

39 (5) "Adult entertainment movie theater" means any establishment, from
40 which minors are excluded and where the principal use of the premises consists of
41 the showing of motion pictures, slides, or photographic or other visual reproductions,
42 where the subject matter meets the criteria of adult entertainment as defined in this
43 chapter and where fees of any kind are charged. This definition shall include
44 establishments wherein the above mentioned medium is the major attraction on a
45 regular basis and establishments wherein the above mentioned medium is shown at
46 least 25% of the showing time of the theater.

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2 (6) "Adult sales practice" means any activity which is distinguished or
3 characterized by a person being in a state of partial nudity while conducting or
4 otherwise engaged in retail sales of goods or services under circumstances where
5 such conduct is likely to be viewed by a member of the public.

6 (7) "Adult tanning salon" means any establishment which offers tanning
7 services to a member of the public and in which adult entertainment takes place.

8 (8) "Customer" means a person patronizing a business for which an adult
9 business license is required by this chapter.

10 ~~((7))~~ (9) "Employee" means any and all persons who work in or at or render
11 any services directly related to the operation of an adult entertainment business
12 regardless of whether that person meets the criteria of a statutory employee,
13 common law employee or independent contractor.

14 ~~((8))~~ (10) "Escort" means a person who, for consideration, agrees or offers
15 to act as a companion, guide, or date for another person, or who agrees or offers to
16 privately model lingerie or to privately perform a striptease for another person.

17 ~~((9))~~ (11) "Escort business" means a person or business association who
18 furnishes, offers to furnish, or advertises to furnish escorts.

19 ~~((10))~~ (12) "Manager" means any person who manages, directs,
20 administers or is in charge of, the affairs and/or conduct of any portion of any activity
21 involving adult entertainment occurring at any place offering adult entertainment.

22 ~~((11))~~ (13) "Member of the public" means any ~~((customer, patron, club~~
23 ~~members, or))~~ person other than ~~((an))~~ a manager or employee as defined in this
24 section ((, who is invited or admitted to an adult entertainment business)).

25 ~~((12))~~ (14) "Nude or state of nudity" means ~~((displays of less than~~
26 ~~completely and opaquely covered human genitals, pubic area, anus, buttocks, or~~
27 ~~female breast below the top of the areola))~~ a state of dress or undress such that any
28 of the body parts described in the county's lewd conduct ordinance, SCC 10.04.025,
29 is exposed to view or covered with anything other than a full and opaque covering
30 within the meaning of that ordinance.

31 ~~((13))~~ (15) "Nude house cleaning business" means a person or business
32 which offers house cleaning services in which the house cleaner is in a state of
33 nudity or partial nudity.

34 (16) "State of partial nudity" means a state of dress or undress not
35 constituting a state of nudity in which any of the following body parts or portions
36 thereof is exposed to view or covered with anything other than a full and opaque
37 covering:

38 (a) Any part of the buttocks or anal cleft; or

39 (b) Any part of the female breast located below the top of the areola.

40 (c) Items commonly known as pasties, G-strings, T-backs, dental floss, and
41 thongs; body paint, body dye, tattoos, latex, tape, or any similar substance applied to
42 the skin surface; any substance that can be washed off the skin; or any substance
43 designed to simulate or which by its nature simulates the appearance of the
44 anatomical area beneath it, is not full and opaque covering within the meaning of this
45 subsection.

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3 ~~((14))~~ (17) "Stock in trade" means the greater of: (a) the retail dollar value
4 of all prerecorded video tapes, discs, books, magazines or similar material readily
5 available for purchase, rental, viewing or use by patrons of the establishment,
6 excluding material located in any storeroom or other portion of the premises not
7 regularly open to patrons; or (b) the total number of titles of all prerecorded video
8 tapes, discs, books, magazines, or similar material readily available for purchase,
9 rental, viewing or use by patrons of the establishment excluding material located in
10 any storeroom or other portion of the premises not regularly open to patrons.
11

12 Section 2. Snohomish County Code Section 6.30.045, adopted by Ordinance No.
13 96-044 on June 24, 1996, is amended to read:
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15 **6.30.045 Unlawful to employ unlicensed person.**

16 It shall be unlawful for any owner, proprietor, manager, or person in charge of
17 any escort business, nude house cleaning business, ~~((or an))~~ adult tanning salon, or
18 business using an adult sales practice, as regulated by this chapter, to employ in
19 such establishment, any person who does not have a valid employee license as
20 required by SCC 6.30.055.
21

22 Section 3. Snohomish County Code Section 6.30.050, adopted by Ordinance No.
23 96-044 on June 24, 1996, is amended to read:
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25 **6.30.050 Manager license required.**

26 No person shall work as a manager in a nude house cleaning business,
27 escort business, ~~((or))~~ adult tanning salon, or business using an adult sales practice,
28 as regulated by this chapter, without a valid license issued by the licensing authority.
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30 Section 4. Snohomish County Code Section 6.30.055, adopted by Ordinance No.
31 96-044 on June 24, 1996, is amended to read:
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33 **6.30.055 Employee license required.**

34 (1) It shall be unlawful for any person to work in the following adult
35 entertainment businesses, in the capacities outlined below, without a license as
36 provided for in this chapter:

37 (a) "nude house cleaning"-- any person actually performing or assisting in the
38 performance of nude house cleaning, as defined in this chapter;

39 (b) "escort business"-- any person acting as an escort as defined by this
40 chapter;

41 (c) "adult tanning salons"-- any person performing any services in a closed
42 room while the patron is present; or

43 (d) business using an "adult sales practice"-- any person who is in a state of
44 partial nudity while conducting or otherwise engaged in retail sales of goods or
45 services.

1 (2) All licenses required shall be invalid as to any adult entertainment
2 business during any period in which the employer is not engaged in business
3 whether by reason of choice or failure of the employer to operate a business or by
4 reason of lapse, suspension or revocation of employer's license.

5 (3) An employee license shall entitle the employee to work only at the adult
6 entertainment business indicated on the employee's license. If an employee
7 changes his or her employment during the license term, the license certificate must
8 be returned to the licensing authority for reissuance, upon payment of the fee set out
9 in SCC 6.01.050(2)(ii), indicating the new place of employment.

10
11 Section 5. Snohomish County Code Section 6.30.060, adopted by Ordinance No.
12 96-044 on June 24, 1996, is amended to read:

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14 **6.30.060 Exclusions.**

15 (1) This chapter shall not be construed to ~~((apply to))~~ prohibit:

16 (a) Plays, operas, musicals, ~~((or other))~~ dramatic works, or other exhibitions
17 or performances that constitute protected speech under the federal or state
18 constitution and which are not obscene;

19 (b) Classes, seminars and lectures held for serious scientific or educational
20 purposes; ~~((or))~~

21 (c) ~~((Exhibitions or dances which are not obscene))~~ Conduct of licensed adult
22 entertainers within adult entertainment dance studios operating pursuant to chapter
23 6.25 SCC; or

24 (d) The act of breastfeeding or expressing breast milk.

25 (2) For this chapter, any exhibition, performance, dance or other medium is
26 obscene:

27 (a) Which the average person, applying contemporary community standards,
28 would find, when considered as a whole, appeals to the prurient interest; and

29 (b) Which explicitly depicts or describes patently offensive representations or
30 descriptions ~~((, applying contemporary community standards, of sexual conduct as~~
31 ~~described in RCW 7.48A.010(2)(b)))~~ of:

32 (i) Ultimate sexual acts, normal or perverted, actual or simulated; or

33 (ii) Masturbation, fellatio, cunnilingus, bestiality, excretory functions or lewd
34 exhibition of the genitals or genital area; or

35 (iii) Violent or destructive sexual acts including but not limited to human or
36 animal mutilation, dismemberment, rape or torture; and

37 (c) Which, when considered as a whole, and in the context in which it is
38 used, lacks serious literary, artistic, political, or scientific value.

39
40 Section 6. A new section is added to Chapter 6.30 of the Snohomish County Code
41 to read:

42
43 **6.30.070 Standards of conduct.**

44 The following standards of conduct shall be adhered to by any adult business
45 for which a license is required by this chapter:

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2 (1) No person under the age of 18 years shall enter or remain in any
3 establishment or premises in which an employee is in a state of nudity or partial
4 nudity.

5 (2) No employee shall be in a state of partial nudity under circumstances
6 where such conduct is likely to be observed by a member of the public other than a
7 customer.

8 (3) No employee shall be in a state of nudity under circumstances where
9 such conduct is likely to be observed by a member of the public, except that an
10 employee who is employed as an escort or nude house cleaner may be in a state of
11 nudity when observed by a customer.

12 (4) No employee who is employed as an escort or nude house cleaner shall
13 be in a state of nudity when observed by a customer unless the employee is
14 removed at least 6 feet from the nearest customer.

15 (5) No male employee shall be visible to a member of the public with his
16 genitals in a discernibly turgid state, even if completely and opaquely covered.

17 (6) No employee shall caress, fondle or erotically touch any employee or
18 member of the public.

19 (7) No employee shall encourage or permit any member of the public to
20 caress, fondle or erotically touch any employee or member of the public.

21
22 Section 7. A new section is added to Chapter 6.30 of the Snohomish County Code
23 to read:

24
25 **6.30.075 Notice to public.**

26 Any business for which an adult business license is required by this chapter
27 shall by signage and other reasonable means put potential customers on notice that
28 the business is an adult business from which persons under the age of 18 years are
29 excluded. Such notice for a business establishment or premises shall include at
30 least one sign conspicuously displayed at each entrance which shall have horizontal
31 and vertical dimensions of least two feet by two feet and state "ADULTS ONLY" in
32 bold letters at least six inches in height.

33
34 Section 8. A new section is added to Chapter 6.30 of the Snohomish County Code
35 to read:

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37 **6.30.080 Prima facie evidence of adult sales practice.**

38 It shall be prima facie evidence of an adult sales practice when a person
39 other than an adult entertainer as defined in SCC 6.25.020 engages in the retail sale
40 of goods or services while in a state of partial nudity under circumstances where
41 such conduct is likely to be viewed by a member of the public.

42
43 Section 9. A new section is added to Chapter 6.30 of the Snohomish County Code
44 to read:

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3 **6.30.085 Signs.**

4 In addition to any restriction on signs imposed by chapter 30.27 SCC or other
5 law, it shall be unlawful for an adult business for which a license is required by this
6 chapter to display a sign as defined in SCC 30.91S.310 which is obscene, deceptive,
7 misleading, or false, or which proposes a transaction which is illegal.
8

9 **6.30.090 Enforcement.**

10 The licensing authority and sheriff are authorized and directed to enforce the
11 provisions of this chapter.
12

13 Section 10. A new section is added to Chapter 6.30 of the Snohomish County Code
14 to read:

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16 **SCC 6.30.095 Nuisance declared.**

17 (1) Any adult entertainment business operated, conducted or maintained in
18 violation of this chapter shall be, and the same is declared to be, unlawful and a
19 public nuisance. The county may, in addition to or in lieu of any other remedies set
20 forth in this chapter, commence an action to enjoin, remove or abate such nuisance
21 in the manner provided by law, and may take such other steps and apply to such
22 court or courts as may have jurisdiction to grant such relief as will abate or remove
23 such public nuisance, and restrain and enjoin any person from operating, conducting
24 or maintaining an adult business contrary to the provisions of this chapter.

25 (2) Any adult entertainment business operated, conducted or maintained
26 contrary to the provisions of chapter 7.48A RCW shall be, and the same is declared
27 to be, unlawful and a public and moral nuisance and the prosecuting attorney may,
28 in addition to or in lieu of any other remedies set forth in this chapter, commence an
29 action or actions to enjoin, remove or abate such public and moral nuisance, or
30 impose a civil penalty, in the manner provided by chapter 7.48A RCW.
31

32 Section 11. A new section is added to Chapter 6.30 of the Snohomish County Code
33 to read:

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35 **6.30.100 Additional enforcement.**

36 The remedies provided for in this chapter are not exclusive, and the county
37 may seek any other legal or equitable relief, including but not limited to enjoining any
38 acts or practices which constitute or will constitute a violation of this chapter.
39

40 Section 12. A new section is added to Chapter 6.30 of the Snohomish County Code
41 to read:

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43 **6.30.105 Relation to other laws.**

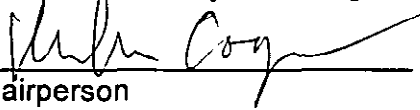
44 (1) This chapter shall not limit application of Chapter 10.04 SCC and other
45 laws prohibiting public nudity except as expressly provided therein. Pursuant to
46 SCC 10.04.025, any public exposure of a person in a state of nudity, other than

1 employees working as escorts or nude house cleaners in adult businesses operating
2 pursuant to this chapter, must be conducted within an adult entertainment dance
3 studio operating pursuant to chapter 6.25 SCC.

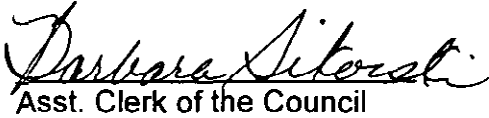
4 (2) This chapter shall not be construed to limit application of other federal,
5 state, and local laws that may apply to adult businesses or employees subject to this
6 chapter, including but not limited to laws relating to public health and workplace
7 safety.

8
9 PASSED this 9th day of December, 2009.

10 SNOHOMISH COUNTY COUNCIL
11 Snohomish County, Washington

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13 _____
14 Chairperson

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16 ATTEST:

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18 _____
19 Asst. Clerk of the Council

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22 APPROVED

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24 EMERGENCY

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26 VETOED

27 DATE: 12/28/09

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30 _____
31 County Executive

32 ATTEST:

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34 _____
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36 Approved as to form only:

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39 _____
40 Deputy Prosecuting Attorney

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