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SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

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ORDINANCE NO. 91 - 102

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Relating to Sales of Cigarettes and Other Tobacco Products;
Amending Snohomish County Code Chapters 6.01 and 6.46.

BE IT ORDAINED:



CO00025255

SECTION 1. Purpose and Intent. The Snohomish County Council finds cigarette smoking by minors to be a continuing problem with grave social consequences. In recognition of the Surgeon General's recent report finding cigarette smoking is as addictive as cocaine and heroin, much more strenuous action to curtail the availability of cigarettes and tobacco products to minors is necessary. The National Institute on Drug Abuse and the United States Public Health Service have concluded that the nicotine in tobacco is a powerful, habit-forming drug and described nicotine addiction as the most widespread example of drug dependence in our country. It is imperative to take more vigorous enforcement action to implement the existing prohibition of sales to minors. The American Medical Association has concluded cigarette smoking is the chief avoidable cause of death in our society. We seek to act now to avoid public and private costs of future health care for youths who develop the habit of smoking in adolescence. The Snohomish County Council further finds that decades of experience with the present system of prohibiting sales of cigarettes to minors has been proven significantly defective. The Snohomish County Council seeks to develop a strict, comprehensive, effective and enforceable system to control the sale of cigarettes to minors.

SECTION 2. Snohomish County Code section 6.01.010, last amended by Ordinance 90-028 on April 25, 1990, is amended to read:

6.01.010 Definitions. In this title, the words and phrases used, unless the context otherwise indicates, shall have the following meanings:

- (1) "Abatement" means the termination of any license or permit violation by lawful and reasonable means as determined by the licensing authority or his duly appointed representative.
- (2) "Adult dog or cat" means any dog or cat six months of age or older.
- (3) "Agricultural pursuits" means where land is primarily used in the production of crops and livestock or fur farming.

(4) "Amusement" means any act or event causing or inducing relaxation and gaiety.

(5) "Amusement device" means any coin-operated or remote controlled machine, device, contrivance, apparatus or appliance, mechanical, electrical or hand propelled, designed to be used in whole or part as an instrument or instrumentally for engaging in the use and exercise of skill by one or more persons in playing a game for the amusement and entertainment of the play or players and which is maintained commercially for such purpose.

(6) "Amusement device distributor" means any person who leases to, or places with others, any amusement device for use, play or operation.

(7) "Amusement device operator" means any person who operates, rents or possesses one or more amusement devices.

(8) "Animal" means any member of the classes: amphibian, fish, reptile, bird, or mammal, except man.

(9) "Animal control agency" means the Snohomish County animal control agency created and perpetuated to enforce the provisions of the Snohomish County Code and laws of the state of Washington as they pertain to animal welfare.

(10) "Animal control officer" means any individual employed, contracted or appointed by the animal control agency for the purpose of enforcing this code or any other code.

(11) "Antique" means any article that because of its age, rarity, or historical significance has a monetary value greater than its original value; provided that for the purposes of this code the term "antique" shall not include automobiles.

(12) "Antique dealer" means any person engaged, in whole or in part in the business of purchasing, selling, trading, or bartering antiques, provided, that the term shall not apply to any person who is defined as a swap meet operator or vendor or an intermittent seller under this section.

(13) "Applicant" means any person, partnership and/or corporation who is applying for a license or permit issued pursuant to any license or permit ordinance.

(14) "Application" means any form designed by the licensing authority for use in securing a new license or permit or on a renewal basis.

(15) "Bath" means any container, receptacle, or facility used for refreshing, washing or soaking all or any part of the human body. The term includes, but is not limited to, a Finnish

bath, hot tub, Japanese bath, sauna, Swedish bath, Turkish bath, and baths provided by air, steam, vapor, water, or electric cabinet.

(16) "Business premises" means the entire building in which an activity or business is located together with the entire tract of land under one ownership upon which the building is located.

(17) "Carnival" means every device, institution or assemblage of devices or institutions the purpose whereof is that of providing entertainment, amusement, sport, pastime or merriment for the patrons thereof and shall include roller coaster, merry-go-rounds, swings, Ferris wheel, games of shooting, throwing, pitching, phenomenal exhibitions or everything of like character.

(18) "Circus" means any institution whose general occupation is that of exhibiting wild animals, feats, horsemanship, animal stunts, acrobatic or aquatic sports for admission to which a fee is charged.

(19) "Commercial kennel" means a place where (a) three or more adult dogs, cats or combinations thereof are kept whether or not for compensation, including facilities known and operated as animal shelters, (b) four or more litters of dogs, cats, or combinations thereof are produced in a calendar year, or (c) dogs or cats are sold but not including small animal hospitals where pets are kept for treatment only, pet shops, private kennels, exhibitor/breeding kennels, or zoological parks.

(20) "County" means Snohomish County.

(21) "Dance hall" means any room, hall, pavilion, boat, float, building or other structure kept or used for the purpose of conducting therein public dances or dancing. It shall include, but not be limited to, those facilities offering dance opportunities as a significant, although not necessary primary purpose, such as taverns, bars, or clubs.

(22) "Darkness" means that period between one-half hour after sunset and one-half hour before sunrise.

(23) "Engaged in business" means, includes, and has reference to a particular occupation or continuing course of commercial activity in which a person is regularly or habitually engaged for the purpose of livelihood or gain.

(24) "Entertainment" means any act or event causing amusement, diversion or the agreeable passing of time.

(25) "Erotic dance" or "erotic dancing" means a dance or other performance that emphasizes and seeks to arouse or excite a patron's sexual desires during the course of which dance or other

performance the dancer engages in any of the following conduct:

- (a) nudity;
- (b) displaying or exposing, with less than a full opaque covering, that portion of the female breast lower than the upper edge of the areola;
- (c) displaying or exposing, with less than a full opaque covering, the dancer's pubic area, pubic hair, or anus;
- (d) a dancer fondling or caressing a patron, or a patron fondling or caressing a dancer;
- (e) a dancer touching herself on the breast, or himself or herself in the pubic area or anal area, or allowing a patron or other dancer to touch those areas;
- (f) simulating, by touching or otherwise, masturbation or intercourse;
- (g) bringing any portion of a dancer's body closer than six inches to a patron or rubbing any portion of the dancer's body on a patron; or
- (h) sitting on a patron's lap or separating a patron's legs.

(26) "Erotic dancer" means a person who performs erotic dance in an erotic dance studio.

(27) "Erotic dance studio" means a fixed place of business which emphasizes and seeks, through one or more erotic dancers, to arouse or excite the patrons' sexual desires.

(28) "Examiner" means the County Hearing Examiner or other hearing examiner appointed by the Snohomish County Council.

(29) "Exhibitor/breeding kennel" means a place at or adjoining a private residence where three but not more than twenty adult dogs, cats, or combination thereof, owned by natural persons residing on said property, are kept for the primary purpose of participating in dog shows or other organized competitions or exhibitions.

(30) "Fire Marshal" means the Snohomish County Fire Marshal or any of his authorized representatives.

(31) "Float" means (1) with respect to boating tournaments or exhibitions, any anchored man-made structure unattached to the shore where any vessel may dock; or (2) with respect to parades, a low, flat, decorated vehicle for carrying exhibits, tableaux, etc. in a parade.

(32) "Grooming parlor" means any establishment, public or private, where animals are bathed, clipped, or combed for compensation.

(33) "Health officer" means the health officer or any authorized representative of the Snohomish Health District.

(34) "Idling speed" means that speed of any motorboat while underway resulting while its propulsion machinery is set at the machine's slowest possible speed.

(35) "Intermittent seller" means any person who sells or exchanges secondhand household or recreational equipment from a residence less than four times per calendar year. Secondhand household and recreational equipment includes but is not limited to: furniture, tools, dishes, skis and fishing equipment.

(36) "Kennel" means a commercial, exhibitor/breeding, or private kennel.

(37) "Length" as it refers to vessels means the overall distance measured in a straight line parallel to the centerline from the foremost part of the vessel to the aftermost part of the vessel, excluding bowsprits, bumpkins, rudders, outboard motors and brackets, and similar fittings and attachments.

(38) "License" means any document issued by the licensing authority which authorizes a person, to conduct an activity in Snohomish County as provided by this title.

(39) "Licensee" means any person to whom a license or renewal of license has been issued pursuant to this title.

(40) "Licensed massage therapist" means a health care professional possessing a valid Washington state massage practitioners license issued pursuant to RCW 18.108.073 and also meeting at least one of the following conditions:

(a) The valid Washington state massage practitioners license was first issued on or after June 1, 1988.

(b) The valid Washington state massage practitioners license was first issued prior to June 1, 1988, but the health care professional is able to demonstrate to the satisfaction of the county licensing authority completion of five hundred hours of educational training from a state accredited massage school.

(c) The valid Washington state massage practitioners license was first issued prior to June 1, 1988 but the health care professional is able to demonstrate to the satisfaction of the county licensing authority continuous professional insurance liability coverage for massage health care with a policy issued before June 1, 1988.

(41) "Licensing authority" means the duly elected auditor of Snohomish County or his duly authorized representative.

(42) "Massage" means the treatment of a human body by another person by rubbing, kneading, hitting or any other manipulation, including the use of equipment, machinery, or appliances in connection with the foregoing.

(43) "Massage parlor" means any place where massages are given or furnished for, or in expectation of, any fee, compensation or monetary consideration except those facilities licensed for use solely by a licensed massage therapist.

(44) "Massage parlor employee" means any person who provides massage for a fee and does not meet the licensing criteria established for licensed massage therapists.

(45) "Merchant patrol business" means and includes the business of, or the representation of being engaged in the business of, guarding or protecting persons or other persons' property, or patrolling streets, districts or territory for such purposes, for hire or reward, as a business and as an independent contractor.

(46) "Motorboat" means any vessel underway under propulsion in whole or in part by machinery. The term shall include seaplanes while taxiing and/or while otherwise not subject to any valid state or federal law or regulation governing the operation of seaplanes.

(47) "Operator" means any person in actual physical control of any vessel.

(48) "Owner" means any person having an interest in or right of possession of any property or business, or any person having control, custody or possession of an animal.

(49) "Parade" means any march or procession consisting of people, animals, bicycles, vehicles in excess of ten in number or combinations thereof, except wedding processions and funeral processions, upon any county road, sidewalk, alley or other county property which does not comply with normal and usual traffic, regulations or controls.

(50) "Pawnbrokers" means any person engaged in whole or in part in the business of loaning money upon the taking or receiving of personal property as security for the repayment of such loans or any person who shall keep any store, shop, room or place where such goods are so taken or received.

(51) "Permit" means any document issued by the licensing authority which authorizes a person to conduct an activity in Snohomish County as provided by this title.

(52) "Person" means any individual, partnership, firm, joint stock company, corporation, association, trust, estate or other legal entity.

(53) "Pet shop" means a person or establishment that acquires animals for the purpose of resale to the public.

(54) "Private detective business" means and includes the business of, or the representation of being engaged in the business of, making for hire or reward, investigation or investigations with reference to any of the following matters:

- (a) The practice of detecting, discovering or revealing crime or criminals, or securing secret information or evidence relating thereto;
- (b) The practice of discovering or revealing the identity, whereabouts, character or actions of any person or persons, thing or things;
- (c) The habits, conduct, movements, whereabouts, associations, transactions, reputations, or character of any person, firm or corporation;
- (d) The credibility of witnesses or other persons;
- (e) The location or recovery of lost or stolen property;
- (f) The causes, origin or responsibility for fires or accidents or injuries to real or personal property with the consent of the authority having jurisdiction;
- (g) The truth or falsity of any statement or representation;
- (h) The business of securing for hire or reward, evidence to be used before authorized investigation committees, boards of award or arbitration, or in the trial of civil or criminal causes.

None of these activities as listed above shall include or permit any interference with any legal law enforcement responsibility or activity.

(55) "Private kennel" means a place at or adjoining a private residence where at least three and not more than ten adult dogs, cats, or combinations thereof, owned by natural persons residing on said property, are kept for the purpose of hunting, training, for field work and obedience trails or for the enjoyment of the species; but not including an exhibitor/breeding kennel. Cats kept for pest or vermin control and in conjunction with an agricultural pursuit as defined, shall not be subject to this provision.

(56) "Private security agency" means a "merchant patrol agency or a "private detective agency", and is further defined as, unless the context otherwise indicates, either a:

- (a) "Merchant patrol agency". Any person who as

principal or employer engages in or who advertises or holds himself out as being engaged in the merchant patrol business; or a

(b) "Private Detective agency". Any person who as principal or employer engages in, or who advertises or holds himself out as being engaged in the private detective business.

(57) "Property" means any tangible property including, but not limited to goods, wares, merchandise, animals, livestock, and land.

(58) "Public bathhouse or hot tub" means any place where baths or hot tubs of any kind are given or furnished to the public for or in expectation of a fee or other compensation.

(59) "Public bathhouse or hot tub employee" means any person who works for a public bathhouse or hot tub.

(60) "Public dance" means any dance that the public generally may gain admission to with or without the payment of an admission fee.

(61) "Public event/assembly" means any gathering or assembly of one hundred or more persons who have been charged admission or made a contribution towards the costs of such gathering or assembly at a single place for the purpose of amusement, entertainment, education or similar common purpose. Such definition shall not include any assembly or gathering conducted for religious, political, or other constitutionally accepted purpose.

(62) "Race-type boat" means any motorboat operated at a speed in excess of thirty-five miles per hour.

(63) "Rowboat" means a small boat propelled by the use of oars or paddles.

(64) "Run" means a sponsored, organized procession to contend in a race consisting of people, bicycles, wheelchairs, other non-motorized vehicles, or combinations thereof containing ten or more persons upon a county road, sidewalk, alley or other county property. "Run" shall not include any training event or race participated in solely by means of a bona fide school track team or teams.

(65) "Running at large" means that an animal or animals are off the premises of the owner and not under control of either the owner or competent person authorized by the owner.

(66) "Safety buoy" means any buoy established as herein provided and constructed to conform to the State Uniform Waterway Marking System.

(67) "Safety buoy line" means the straight line between any two safety buoys or the straight line between any safety buoy and the

point on the shoreline closest to such safety buoys.

(68) "Sailboat" means any vessel propelled by sail or in part by sail and in part manually.

(69) "Secondhand dealer" means any person engaged in whole or in part in the business of purchasing, selling, trading, or bartering, secondhand personal property including metal, junk, or melted metals; provided, that the term shall not apply to any person who:

(a) Is engaging in any activity which requires a license under Chapter 46.70 RCW, motor vehicle dealers, or Chapter 46.80 RCW, motor vehicle wreckers;

(b) Is engaged in the purchase and/or sale of bottles, cans, or paper solely as a part of the process of recycling such bottles, cans, or paper;

(c) Any person conducting a sale of second hand personal property under any legal forfeiture, foreclosure, liquidation, or any repossession pursuant to the terms of any contract of sale or incidental to any legal action.

(d) Any person defined under this section as a "swap meet operator" or "swap meet vendor" or "intermittent seller."

(70) "Sheriff" means the Sheriff of Snohomish County or any duly appointed deputy sheriff of Snohomish County.

(71) "Shoreline" means the land bordering any existing body of water.

(72) "Swap meet" means any event where secondhand goods are offered or displayed for sale or exchange and

(a) A fee or commission is charged for the privilege of offering or displaying secondhand goods for sale or exchange; or

(b) A fee is charged to prospective buyers for admission to the area where secondhand goods are offered for sale or exchange.

(73) "Swap meet operator" means any person who sponsors, controls, manages, or otherwise conducts a swap meet.

(74) "Swap meet vendor" means any person who sells, exchanges, displays, or offers for sale or exchange, any secondhand goods at a swap meet more than eight times per year.

~~((75) "Tobacco vending machine" means any machine or device designed or used for the vending of cigarettes, cigars, tobacco, or tobacco products upon the insertion of coins.))~~

~~((76) "Tobacco vending machine distributor" means any person who leases to or places with others any tobacco vending machine.))~~

~~((77) "Tobacco vending machine operator" means any person who operates, rents, or possesses one or more tobacco vending machines.))~~

(75)~~((78))~~ "Vessel" means any type of watercraft used or capable of being used as a means of marine transportation.

(76)~~((79))~~ "Visible" as it refers to the hours of darkness, means capable of being seen on a dark night with a clear atmosphere; as it refers to the daylight hours, means capable of being seen on a dull day with the atmosphere clear of fog, haze, or rain.

(77)~~((80))~~ "Water-ski" means to plane over the water with or without any floating device while being towed by any vessel. The term shall include water-skiing, freeboarding, aquaplaning and similar devices and/or activities.

(78)~~((81))~~ "Wharf" means any manmade structure attached to the shore and to which any vessel may dock.

All other terms, phrases or words not defined by this chapter shall be known by their common and ordinary meaning and usage in the English language.

SECTION 3. Snohomish County Code section 6.01.050, last amended by Ordinance 90-028 on June 25, 1990, is amended as follows:

6.01.050 Fees

(1) A fee shall be paid in full at the time of application as set out in this section. An applicant who proposes to conduct activities at more than one location shall pay a separate fee for each location for which a license or permit may be issued. A fee is not refundable and may not be prorated.

(2) Fees for the following licenses and permits are established as follows:

STANDARD LICENSE AND PERMIT FEES

(a) Kennels, Grooming Parlors, and Pet Shops (Chapter 6.06)

(i) Private kennel	\$	50.00 per year
(ii) Exhibitor/breeding kennel		100.00 per year
(iii) Commercial kennel, grooming parlor, pet shop--each additional		

classification 50.00 per year
(iv) Combination of kennel and grooming parlor or pet shop-each additional classification 50.00 per year

(b) Massage Parlors and Massage Parlor Employees (Chapter 6.07 and 6.17)

(i) Massage parlor \$ 650.00 per year
(ii) Massage parlor employee 100.00 per year

(c) Licensed Massage Therapist (Chapter 6.07 and 6.17)

(i) Licensed Massage Therapist \$ 50.00 per year

(d) Public Bathhouse or Hot Tubs and Public Bathhouse or Hot Tub Employees (Chapters 6.47 and 6.49)

(i) Public bathhouse or hot tub \$ 500.00 per year
(ii) Public bathhouse and hot tub employee 100.00 per year

(e) Erotic Dance Studios and Erotic Dancers (Chapter 6.25)

(i) Erotic Dance Studio \$ 350.00 per year
(ii) Erotic Dancer 25.00 per year

(f) Merchant Patrolman/Private Detective (Chapter 6.18)

(i) Merchant Patrolman \$ 50.00 per year
(ii) Private Detective 150.00 per year

(g) Pawnbroker/Secondhand and Antique Dealers (Chapter 6.19)

(i) Pawnbroker \$ 300.00 per year
(ii) Secondhand Dealer 250.00 per year
(iii) Antique Dealer 250.00 per year

(h) Private Security Agency (Chapter 6.26)

(i) Merchant Patrol Agency \$ 350.00 per year
(ii) Private Detective Agency 350.00 per year

(i) Amusement Devices and Game Tables (Chapter 6.36)

(i) Amusement Device Fee \$ 80.00 per amusement device

(j) Public Events/Assemblies (Chapter 6.37)

(i) Public Events/Assemblies \$ 200.00 per event

- (k) Dance/Dance Hall (Chapter 6.38)
 - (i) Single Dance \$ 25.00 per event
 - (ii) Dance Hall-Annually 200.00 per year
 - (iii) Dance Hall-Quarterly 50.00 per quarter
- (l) Fun Runs and Parades (Chapter 6.39)
 - (i) Fun Runs \$ 75.00 per event
 - (ii) Parades 75.00 per event
- (m) Boating Tournaments and Exhibitions (Chapter 6.40)
 - (i) Boating Events \$ 150.00 per event
- (n) Application Process (Chapter 6.01)
 - (i) Fingerprinting Actual cost to county
 - (ii) Advertisement of application Actual cost to county
- (o) License/Permit (Chapter 6.01)
 - (i) License or permit replacement \$ 10.00 per reissue
 - (ii) License or permit information change 10.00 per reissue
- (p) Weapons Qualifications (Chapter 6.18)
 - (i) Qualified by sheriff certificate 25.00 per year
 - (ii) Qualified by other police agency approved by sheriff 10.00 per year
- (q) Appeal Processes of Hearing Examiner (Chapter 6.01)
 - (i) Appeal filing fee \$ 50.00 per case
 - (ii) Appeal document reproduction 0.25 per page
- (r) Pawnbroker, Secondhand and Antique Dealer Employees (Chapter 6.20)
 - (i) Employees \$ 60.00 per year
- (s) Tobacco ((Vending Machines))Sales (Chapter 6.46)
 - ~~(i) Tobacco Vending Machine Fee \$ 80.00 per year per tobacco vending machine~~
 - (i) Basic tobacco sales fee \$ 50.00 per year per establishment
 - (ii) Additional sales location charge 10.00 per year per location

SECTION 4. The heading of chapter 6.46 Snohomish County

Code, adopted by Ordinance 86-119 on January 7, 1987, is amended as follows:

CHAPTER 6.46:

REGULATION OF TOBACCO ((VENDING MACHINES)) SALES

6.46.001	General provisions
<u>6.46.005</u>	<u>Definitions</u>
6.46.010	Operation Without License Prohibited
6.46.050	Tobacco Vending Machine Identification Required
6.46.060	Investigation Required
6.46.070	License Fees and Term
((6.46.080	Minors))
<u>6.46.080</u>	<u>Vending regulations</u>
<u>6.46.090</u>	<u>Identification required</u>
<u>6.46.100</u>	<u>Posting tobacco products sales prohibition required</u>
<u>6.46.110</u>	<u>Due diligence defense</u>
<u>6.46.120</u>	<u>Non-transferability</u>
<u>6.46.130</u>	<u>Packaging and individual product sales</u>
<u>6.46.140</u>	<u>Penalty for minors</u>
<u>6.46.150</u>	<u>Severability</u>
<u>6.46.160</u>	((6.46.100)) Additional enforcement

SECTION 5. - NEW SECTION. A new section 6.46.005 is added to chapter 6.46 Snohomish County Code as follows:

6.46.005 Definitions. The following words and phrases used in this chapter shall have the meanings set forth below unless the context indicates otherwise:

- (1) **"Minor"** means any individual who is less than eighteen years old.
- (2) **"Seller"** means any person, firm, association, company, partnership or corporation who operates a store, stand, booth, concession or other place at which sales of tobacco products are made for the purchasers consumption or use, EXCEPT, that for sales of cigarettes or tobacco products through vending machines, which are not sales conducted in person, "seller" shall mean the owner of the vending machine.
- (3) **"Sales conducted in person"** means payment for the purchase of the tobacco product is received directly and in person from the purchaser by the seller or his employee. Sales of tobacco products from tobacco vending machines which are located in plain view of the seller or his employee and controlled by an electronic device activated by the seller or his employee, upon the buyer's presentation of acceptable identification required in Section 6.46.100, shall also be deemed "sales conducted in person".

SECTION 6. Section 6.46.010 Snohomish County Code, last amended by Ordinance 87-038 on June 3, 1987, is amended as follows:

6.46.010 Operation Without License Prohibited.

~~((1) No person shall distribute, operate, lease sell, rent or possess any tobacco vending machine without first securing a distributor's license as required by this chapter.~~

~~(2) Each distributor's or operator's license shall specify the number of machines at the location. It shall be a violation of this chapter to increase or decrease the number of tobacco vending machines at a location without notifying the licensing authority and securing a revised license.)~~

(1) No seller shall engage in tobacco sales conducted in person or through a vending machine without first obtaining a tobacco sales license as required by this chapter for each establishment where cigarette or tobacco product sales are conducted. All licenses shall expire one year from the date of issuance and must be renewed annually under the terms and conditions of this chapter.

(2) If a licensee conducts sales of cigarettes or tobacco products at more than one location within an establishment or within multiple establishments, the licensee shall pay the additional sales location charge specified in section 6.01.050 Snohomish County Code for each sales location except one. As used in this subsection, "sales location" means each cash register or functionally similar device at which payment is received by the seller for cigarettes or other tobacco products purchased by a buyer. Each tobacco vending machine or similar device shall be considered a separate sales location.

SECTION 7. Snohomish County Code Section 6.46.070, adopted by Ordinance 86-119 on January 7, 1987, is amended to read.

6.46.070 License fees and term. The fees for this license are established by and are contained in ~~((SCC))~~ section 6.01.050 SCC. The term for this license shall be ~~((from April 1st to March 31st of each))~~ one year from date of issuance.

SECTION 8. Repealer. Snohomish County Code Section 6.46.080, adopted by Ordinance 86-119 on January 7, 1987, is hereby repealed.

SECTION 9. Repealer. Snohomish County Code Section 6.46.100 last amended by Ordinance 87-038 on June 3, 1987, is hereby repealed.

NEW SECTION - SECTION 10. A new section 6.46.080 is added to chapter 6.46 Snohomish County Code as follows:

6.46.080 Vending Regulations. Use of tobacco vending machines or any other mechanism or method of retail sales of cigarettes or other tobacco products which do not require a sale to be conducted in

person by the seller or agent of the seller are prohibited; provided that this section shall not prohibit the installation and use of a tobacco vending machine by a seller, his agents or employees eighteen years or greater in:

- (1) Any premises or portion thereof to which access by minors is expressly prohibited by law if, and only if, the tobacco vending machine is located fully within such premises from which minors are prohibited and not less than ten feet from all entrance and/or exit ways; or
- (2) Commercial buildings or industrial plants or portions thereof where the public is expressly prohibited and where such machines are strictly for the use of the employees therein; provided that the area must be posted as not open to the public and no minor employees may usually be admitted.

NEW SECTION - SECTION 11. A new section 6.46.090 is added to chapter 6.46 Snohomish County Code as follows:

6.46.090 Identification required. No seller shall sell or permit to be sold cigarettes or other tobacco products to any person without requesting and examining identification from the purchaser positively establishing the purchaser's age as eighteen years or greater unless the seller has some other conclusive basis for determining the purchaser is at least eighteen years of age; EXCEPT, this requirement shall not apply to sales conducted by the use of a vending machine or other mechanism or method of retail sale which does not require the sales to be conducted in person by the seller or agent of the seller. In the event the seller does not request and examine identification from the purchaser, the seller shall be deemed to have not had "a conclusive basis" under this section if the purchaser is in fact a minor. Identification shall be by means of an officially issued card accepted as proof of age for the sale of alcoholic beverage pursuant to RCW 66.16.040.

NEW SECTION - SECTION 12. A new section 6.46.100 is added to chapter 6.46 Snohomish County Code as follows:

6.46.100 Posting tobacco products sales prohibition required. No seller shall sell or shall permit to be sold, cigarettes or other tobacco products, unless the location at which the cigarettes or other tobacco products are available for purchase is posted with a notice which is clearly visible to anyone purchasing the products, and which states:

**IT IS ILLEGAL TO SELL OR PERMIT TO BE SOLD ANY TOBACCO
PRODUCTS TO ANY PERSON UNDER EIGHTEEN (18) YEARS OF AGE
RCW 26.28.080 and SCC 6.46.090**

The notice must be in black letters at least one (1) inch in height on a white background.

NEW SECTION - Section 13. A new section 6.46.110 is added to chapter 6.46 Snohomish County Code as follows:

6.46.110 Due diligence defense. In any proceeding pursuant to sections 6.01.140 through 6.01.142 for suspension or revocation of a tobacco sales license, it shall be a complete defense from suspension or revocation that the licensee exercised due diligence, as defined by this section, to prevent sales of tobacco products to minors. A licensee who does each of the following shall be deemed to have exercised due diligence to prevent sales of tobacco products to minors:

1. Conspicuously post and reasonably maintain appropriate signs notifying customers that identification is required to purchase tobacco products.
2. Conspicuously post and reasonably maintain appropriate signs in areas frequented by employees such as near time cards or in lunchrooms reminding them of the ordinance and sanctions thereunder.
3. Conspicuously post and reasonably maintain appropriate signs on or near the cash register(s) or comparable area(s) reminding employees to check identification before selling tobacco products if in any doubt as to the customer's age.
4. Require each employee, as part of the application for employment process, to read the ordinance or a summary of the ordinance and sign a covenant that they understand and will uphold the ordinance.
5. Provide verbal instructions to each employee and require them to sign a covenant that verbal instructions have been received and understood.
6. Provide each employee with a written list of the types of identification that are acceptable to establish legal age. Any of the following officially issued cards of identification, if not visibly altered, which shows the person's correct age and bears the person's signature and photograph shall be sufficient to establish a person's age for purposes of purchasing tobacco products:
 - (a) Liquor control authority card of identification of any state or province of Canada, or "identocard" issued by the Washington State Department of Licensing pursuant to RCW 46.20.117.
 - (b) Driver's license, instruction permit or identification of any state or province of Canada.
 - (c) United States active duty military identification.

(d) Passport.

(e) Merchant Marine identification card issued by the United States Coast Guard.

NEW SECTION - SECTION 14. A new section 6.46.120 is added to chapter 6.46 Snohomish County Code as follows:

6.46.120 Non-Transferability. A tobacco sales license is nontransferable, except, if a tobacco seller changes location, a new tobacco retail license will be issued for the new address upon receipt of an application for change of location. The license will retain the same expiration date as that previously issued.

NEW SECTION - SECTION 15. A new section 6.46.130 is added to chapter 6.46 Snohomish County Code as follows:

6.46.130 Packaging and Individual Product Sales. It is prohibited for a seller to sell cigarettes not in a package provided by the manufacturer with required health warnings and with state tax stamp certification. Sales of individual, unpackaged cigarettes is specifically prohibited under this section.

NEW SECTION - SECTION 16. A new section 6.46.140 is added to chapter 6.46 Snohomish County Code as follows:

6.46.140 Penalty for Minors.

- (1) Minors are prohibited from purchasing tobacco products. Any minor who purchases tobacco products from a seller in Snohomish County shall be guilty of a category E offense under the Juvenile Justice Act, Chapter 13.40 R.C.W.
- (2) Each tobacco purchase by a minor shall constitute a separate offense.

NEW SECTION - SECTION 17. A new section 6.46.150 is added to chapter 6.46 Snohomish County Code as follows:

6.46.150 Severability. Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portion of this chapter.

NEW SECTION - SECTION 18. A new section 6.46.160 is added to chapter 6.46 Snohomish County Code as follows:

6.46.160 Additional Enforcement. Notwithstanding the existence or use of any other remedy, the licensing authority may seek legal or equitable relief to enjoin any acts or practices which constitute a violation of this chapter. The licensing authority may empower certain representatives of the Sheriff's Office and agents

of the Snohomish Health District in the enforcement of this chapter by means of interlocal agreement; provided that the auditor or his/her representative shall have final authority in the determination of enforcement action in accordance with the provisions of Chapter 6.01 of the Snohomish County Code.

SECTION 19. Effective date. This chapter shall take effect on October 1, 1991.

PASSED THIS 31st DAY OF JULY, 1991.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

[Signature]
Council Chairperson

ATTEST:

[Signature]
Clerk of the Council

Approved as to Form:

[Signature]
Deputy Prosecuting Attorney

- (X) Approved
- () Denied
- () Emergency

Date: 8/7/91

ATTEST:

[Signature]

[Signature] GARY WEIKEL
County Executive
Executive Administrator

PUBLISHED _____ AND _____