



CO00024196

Snohomish County Council  
Snohomish County, Washington

ORDINANCE NO. 94-091

ADDING SNOHOMISH COUNTY CODE CHAPTER 10.05  
RELATING TO DISSEMINATION OF  
SEXUALLY EXPLICIT MATERIAL TO MINORS

BE IT ORDAINED:

Section 1. A new chapter is added to Title 10 of the  
Snohomish County Code to read:

Chapter 10.05

Disseminating Sexually Explicit Material to Minors

Sections:

- 10.05.010 Definitions
- 10.05.020 Disseminating Sexually Explicit Material to Minors
- 10.05.030 Affirmative Defenses
- 10.05.040 Vicarious Liability
- 10.05.050 Penalty

10.05.010 Definitions. In this chapter, unless the context clearly requires otherwise,

(1) "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sado-masochistic abuse:

(a) which the average adult person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest in sex of minors; and

(b) which the average adult person would find is patently offensive to prevailing standards in the adult community with respect to what is suitable material for minors; and

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

(2) "Knowledge" and "knowing" have the meaning set out in RCW 9A.08.010(1)(b).

(3) "Minor" means a person less than eighteen years old.

(4) "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion

thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

(5) "Sado-masochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(6) "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be a female, breast.

(7) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

10.05.020 Disseminating sexually explicit material to minors. A person is guilty of disseminating sexually explicit material to minors when:

(1) with knowledge of its character and content, he sells or loans to a minor for monetary consideration:

(a) any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sado-masochistic abuse and which is harmful to minors; or

(b) any book, pamphlet, magazine or printed matter however reproduced which contains any matter enumerated in paragraph (1)(a) hereof, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sado-masochistic abuse and which, taken as a whole, is harmful to minors; or

(2) knowing the character and content of a motion picture, show or other presentation which, in whole or in part, depicts nudity, sexual conduct or sado-masochistic abuse, and which is harmful to minors, he:

(a) exhibits such motion picture, show or other presentation to a minor for a monetary consideration; or

(b) sells to a minor an admission ticket or pass to premises whereon there is exhibited or to be exhibited such motion picture, show or other presentation; or

(c) admits a minor for a monetary consideration to premises whereon there is exhibited or to be exhibited such motion picture show or other presentation.

10.05.030 Affirmative defenses. In any prosecution for disseminating sexually explicit material to minors, it is an affirmative defense that:

(1) the defendant had reasonable cause to believe that the minor involved was eighteen years old or more; and

(2) such minor exhibited to the defendant a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was eighteen years old or more.

10.05.040 Vicarious liability. No person shall be vicariously liable for the conduct of agents, employees, or employers who violate this chapter except as provided in RCW 9A.08.030(2)(b).

10.05.050 Penalty. Any person violating this chapter shall be guilty of a misdemeanor and upon conviction shall be punished as provided in SCC 1.01.100.

PASSED this 21<sup>st</sup> day of September, 1994.

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

Karen Miller  
Chairperson

Approved as to Form Only:

[Signature]  
Deputy Prosecuting Attorney

ATTEST:

Barbara Sironi  
Clerk of Council, Asst.

- (  ) APPROVED
- (  ) VETOED
- (  ) EMERGENCY

DATE: 9/23/94  
[Signature]  
County Executive

ATTEST:

Marilyn B. Abel