

**SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON**



ORDINANCE NO. 96-044

**ADDING A NEW CHAPTER 6.30 TO SNOHOMISH COUNTY CODE TITLE 6
RELATING TO THE LICENSING OF ADULT BUSINESSES**

Whereas, counties have the right and duty to enact laws for the protection of the public health, safety, and general welfare and morals; and

Whereas, the Snohomish County Council held a public hearing on October 12, 1994, regarding a proposal to establish a moratorium on the acceptance of applications for, or issuance of any county license, permit, or approval, for the establishment, location or licensing of adult entertainment businesses or adult entertainment uses in the county; and

Whereas, at that hearing and subsequent hearings on this subject extensive evidence was presented to the Snohomish county council showing that the establishment of adult entertainment businesses is associated with increased crime. Locally, Kent, Lynnwood, Seattle, Mountlake Terrace, Everett, and Arlington have all concluded that this is the case. Nationally, studies and/or statistics from Whittier, Indianapolis, New York, Cleveland, Los Angeles, Austin, Phoenix, St. Paul, Boston, and the State of Minnesota have been cited as showing that adult entertainment businesses are associated with increased crime; and

Whereas, the evidence presented demonstrated that increases in crimes involving prostitution, narcotics, sex-related crimes, and other disruptive behavior are associated with adult entertainment businesses; and

Whereas, extensive evidence presented showed that the establishment of adult entertainment businesses is associated with a decline in property values of nearby property. Locally, Kent, Seattle, and Everett have all concluded that this is the case. Nationally, studies and/or statistics from Indianapolis, Whittier, Los Angeles, Oklahoma City, New York, and Detroit have been cited as showing that adult entertainment businesses are associated with a decline in property values; and

Whereas, the evidence presented demonstrated that negative land use impacts including noise, trash, and traffic problems are associated with adult entertainment businesses; and

Whereas, extensive evidence presented showed that the establishment of adult entertainment businesses is associated with a degradation of the quality of life within a neighborhood. Locally,

Kent, Lynnwood, Seattle, Mountlake Terrace, and Everett have all concluded that this is the case; and

Whereas, over 28% of Snohomish county's population is under the age of 18 and there is a compelling need to protect minors from criminal and unlawful activities associated with adult entertainment; and

Whereas, following public notice, a hearing was held on October 12, 1994, whereat testimony was presented which demonstrated the negative secondary effects of adult entertainment described herein; and

Whereas, at that hearing the council adopted Ordinance 94-096 which established a moratorium on the acceptance of applications for, or issuance of any county license, permit, or approval, including but not limited to, business licenses, use permits, or building permits, for the establishment, location, or licensing of adult entertainment businesses or uses in Snohomish county, said moratorium to be effective until January 20, 1995; and

Whereas, following public notice, the council held a public hearing on January 5, 1995, and adopted Ordinance 94-128 and Ordinance 94-129 as interim measures to expire on January 20, 1996; and

Whereas, the council adopted Ordinance 95-121 and Ordinance 95-122 on January 3, 1996, extending the interim regulations until July 20, 1996; and

Whereas, in 1994 the county executive established an "adult entertainment zoning committee" made up of citizens assisted by county staff to report back to the executive in 1995 with recommendations regarding zoning regulations for sexually oriented adult entertainment businesses; and

Whereas, this committee at its first meeting discussed the need to expand its role to include recommendations regarding regulatory ordinances dealing with the licensing and operation of adult entertainment businesses; and

Whereas, the council and executive anticipated at the time of passage of Ordinance 94-129 and Ordinance 94-128 on January 5, 1995, that they would be interim measures, with final action being based on the findings and report of the adult entertainment zoning committee; and

Whereas, the adult entertainment zoning committee held 12 meetings, reviewed sample ordinances from other jurisdictions, reviewed relevant decisions of the federal and state courts, reviewed studies of the secondary impacts of adult entertainment businesses/uses, reviewed existing zoning regulations in Snohomish county, discussed impacts of adult entertainment and

proposed regulations with representatives of law enforcement, licensing authorities, and planning and development services, as well as other matters as reflected in the report of the committee and its attached documentation; and

Whereas, the recommendations of the adult entertainment zoning committee are reflected in the report and proposed ordinance submitted to the county executive and council; and

Whereas, following public notice, the council held a public hearing on _____ 1996 to consider the adult entertainment zoning committee's recommendations;

NOW, THEREFORE, BE IT ORDAINED:

Section 1: Findings and Conclusions.

Based on the testimony and evidence presented, the county council adopts the findings regarding the adverse secondary impacts of adult entertainment made by the adult entertainment zoning committee as shown below:

A. Adverse secondary impacts related to crime:

1. Adult entertainment uses have a negative impact on law enforcement and are associated with increased rates of crime.
2. As a result law enforcement resources must be augmented and redirected to monitor adult entertainment uses to minimize criminal activity.
3. Adult entertainment uses are especially associated with higher incidents of prostitution, lewd acts, other sex-related crimes, and drug use.

B. Adverse secondary impacts related to property values:

1. Adult entertainment uses have a negative impact on property values, especially the value of residential property.
2. Adult entertainment uses can adversely impact business investment in a neighborhood.
3. Customers of adult entertainment uses may use other businesses nearby and discourage regular customers of those businesses which can further discourage other business investment or reinvestment.

4. A community's image may be negatively affected by the location of adult entertainment uses in it. A positive image is a key part of maintaining property values.

C. Adverse secondary impacts related to quality of life/neighborhood degradation:

1. Experience in other cities has shown that a blighting effect is often experienced in communities where adult entertainment uses are located. This degradation and blighting effect is experienced by both residential and business communities.

2. The location of adult entertainment uses in a neighborhood attracts transients, increases crimes and devalues property. These impacts cause other property owners to move, further contributing to blight and degradation of the neighborhood.

3. Live adult entertainment uses operate late at night which creates late night impacts of traffic and noise which are incompatible with residential uses.

4. Adult entertainment uses do not provide the sort of community business services desired or sought by residential communities. They do, however, for the reasons outlined in these findings, contribute to neighborhood degradation and blight.

D. Adverse secondary impacts related to children:

1. Children are especially vulnerable to negative impacts from exposure to adult entertainment uses because their characters are still in the process of formation.

2. Exposure to adult entertainment uses will often create conflict with the moral and ethical standards parents desire to instill in children.

3. As a result of findings 1 and 2 above, exposure of children to adult entertainment uses can have serious negative impacts regarding children's development as mature, socially responsible adults.

4. Adult entertainment uses near religious facilities, schools, parks, and other facilities or areas where children are likely to be found will increase the likelihood of these negative impacts.

5. The negative impacts on children of adult entertainment is of particular concern in Snohomish County where over 28% of the population is under 18 years of age.

E. Additional adverse secondary impacts:

1. Adult entertainment uses can have a negative impact on public health due to the danger of sexually transmitted diseases.
2. The impacts described above are compounded when the adult entertainment uses are concentrated.
3. Adult entertainment uses are inconsistent land uses in or near residential communities for the reasons above, including but not limited to, the negative impacts of increased crime, lowered property value, exposure of children, and the degrading and blighting effects on a neighborhood.
4. Adult entertainment uses are inconsistent land uses in business districts which are near or serve residential communities for the reasons above, including but not limited to, the negative impacts of increased crime, lowered property value, exposure of children, and the degrading and blighting effects on a neighborhood.
5. For all the reasons cited above the goals of preserving neighborhood character, quality, and viability are adversely affected by the presence of adult entertainment uses.

Further, based on these findings on the negative adverse secondary impact of adult entertainment uses, the report of the adult entertainment zoning committee, and the testimony and evidence presented to the council, the council makes the following additional findings:

1. Regulation of the adult entertainment industry is necessary because in the absence of such regulation significant criminal activity has historically and regularly occurred. This history of criminal activity in the adult entertainment industry laws included prostitution, illegal employment of minors, narcotics and alcoholic beverage law violations, breaches of the peace, tax evasion and the presence within the industry of individuals with hidden ownership interest and outstanding arrest warrants.
2. Specific forms of adult entertainment require specific regulations to address the adverse secondary impacts and partially mitigate their impact on the community. The adult entertainment zoning committee reviewed the various adult entertainment uses and based on the evidence presented to it proposed the following ordinance to address certain specific kinds of adult entertainment.
3. It is often necessary to license employees in the adult entertainment industry to prevent the exploitation of minors; to ensure that each such employee is an adult and to ensure

that such employees have not assumed a false name, which would make regulation of the employee difficult or impossible. The Adult Entertainment Zoning Committee recommended to the Council which forms of adult entertainment had secondary impacts which necessitated licensing employees. Those recommendations are reflected in this ordinance.

4. Each of the specific forms of adult entertainment regulated by this ordinance can be shown to have created negative secondary impacts. Numerous other jurisdictions have attempted to address these negative secondary impacts through a combination of zoning and licensing regulations. The following ordinance represents Snohomish county's licensing regulations for all adult entertainment uses except adult arcades and adult dance studios which are addressed in separate ordinances.

5. Adult entertainment book and/or video stores have negative secondary impacts upon the community. The negative secondary impacts reviewed by the council included at a minimum negative impacts on property values (Indianapolis study), increases in crime (Kent study citing studies in Detroit and Cleveland), and negative impacts on business activity (New York).

6. Adult hotels have negative secondary impacts on the community. The United States Supreme Court cited the findings of the City of Los Angeles in upholding their regulation in **FW/PBS, Inc. dba Paris Adult Bookstore II v. City of Dallas**.

7. Adult entertainment movie theaters have negative secondary impacts upon the community. The negative secondary impacts reviewed by the council included at a minimum negative impacts on property values (Seattle and Everett) and increased crime (Seattle).

8. Adult tanning salons have negative secondary impacts upon the community. Investigation in Federal Way found acts of prostitution and masturbation took place within these establishments.

9. Escort businesses have negative secondary impacts upon the community. Repeated law enforcement investigations in Snohomish county have identified escort services as a source of prostitution.

10. Nude house cleaning businesses have negative secondary impacts upon the community. Lynnwood police officers found illegal sexual contact, agreement for acts of prostitution, and agreement to provide illegal drugs to be associated with this business.

11. Numerous other jurisdictions have attempted to address these negative secondary impacts through a combination of zoning and licensing regulations. Snohomish county relies on the validation of these methods by the courts in cases such as, but not limited to, **Renton v. Playtime Theater** and **Young v. American Mini Theaters** (United States Supreme Court), **Kev, Inc. v. Kitsap County** (United States Court of Appeals, 9th Circuit), **Northend Cinemas v. Seattle** and **O'Day v. King County** (Washington State Supreme Court), and **Everett v. Heim** (Washington State Court of Appeals).

12. The license fees required in this chapter are necessary as nominal fees imposed as necessary regulatory measures designed to help defray the substantial expenses incurred by the county in regulating the adult entertainment industry.

13. It is not the intent of this ordinance to suppress or censor any expressive activities protected by the First Amendment of the United States Constitution or Article 1, Section 5 of the Washington State Constitution, but rather to enact time, place and manner regulations which address the compelling interests of the county in mitigating the secondary effects of adult entertainment establishments.

Section 2. A new chapter 6.30, Adult Businesses, is added to the Snohomish County Code as follows:

CHAPTER 6.30
ADULT BUSINESSES AND EMPLOYEES

Sections:

6.30.005	General provisions.
6.30.010	Definitions.
6.30.015	Adult businesses - license required.
6.30.020	License fees and terms.
6.30.025	Investigation required.
6.30.030	Fingerprinting required.
6.30.035	Photograph required.
6.30.040	Underage Employees.
6.30.045	Unlawful to employ unlicensed person.
6.30.050	Manager license required
6.30.055	Employee license required.
6.30.060	Exclusions.
6.30.065	Severability.

6.30.005 General provisions. Unless specified otherwise in this chapter, the general provisions contained in chapter 6.01 SCC shall apply to the licenses required by this chapter.

6.30.010 Definitions. In addition to the definitions contained in SCC 6.01.010 the words and phrases in this section, unless the context otherwise indicates, shall have the following meanings:

(1) "Adult entertainment" means any exhibition, performance or medium which is distinguished or characterized by:

(a) Acts of masturbation, sexual intercourse or sodomy; or
(b) Fondling or other touching of the human genitals, pubic region, buttocks or female breast; or

(c) Human genitals in a state of sexual stimulation or arousal; or
(d) Displays of less than completely and opaquely covered human genitals, pubic area, anus, buttocks, or female breast below the top of the areola; or

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

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

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

(3) "Adult entertainment business" means any establishment or premises which has at least 25% of its trade in the display, barter, rental, or sale of a medium which meets the criteria of adult entertainment as defined by this chapter and includes but is not limited to: adult entertainment bookstores, adult entertainment movie theaters, adult tanning salons, escort businesses and nude house cleaning businesses.

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

(5) "Adult entertainment movie theater" means any establishment, from which minors are excluded and where the principal use of the premises consists of the showing of motion pictures, slides, or photographic or other visual

reproductions, where the subject matter meets the criteria of adult entertainment as defined in this chapter and where fees of any kind are charged. This definition shall include establishments wherein the above mentioned medium is the major attraction on a regular basis and establishments wherein the above mentioned medium is shown at least 25% of the showing time of the theater.

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

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

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

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

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

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

(12) "Nude or state of nudity" means displays of less than completely and opaquely covered human genitals, pubic area, anus, buttocks, or female breast below the top of the areola.

(13) "Nude house cleaning business" means a person or business which offers house cleaning services in which the house cleaner is in a state of nudity.

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

6.30.015 Adult businesses - license required. No person shall operate within unincorporated Snohomish County an adult entertainment business, an adult hotel, an adult tanning salon, an escort business, or a nude house cleaning business without a valid adult business license issued by the licensing authority.

No escort business or nude house cleaning business shall provide services within unincorporated Snohomish County without a valid license issued by the licensing authority.

6.30.020 License fees and term. The fees for the licenses required by this chapter are contained in SCC 6.01.050(2). The terms for these licenses is one year from date of issuance.

6.30.025 Investigation required. Applicants seeking a license under this chapter shall be investigated according to the provisions outlined in SCC 6.01.047.

6.30.030 Fingerprinting required. Applicants seeking a license under this chapter shall be fingerprinted by the sheriff as specified in SCC 6.01.046(1).

6.30.035 Photograph required. Applicants seeking an employee or manager license as required by this chapter shall submit photographs as specified in SCC 6.01.046(2).

6.30.040 Underage Employees. It shall be unlawful for any owner, proprietor, manager, or person in charge of any facility regulated by this chapter, to have an employee in such establishment, under the age of 18 years of age.

6.30.045 Unlawful to employ unlicensed person. It shall be unlawful for any owner, proprietor, manager, or person in charge of any escort business, nude house cleaning business, or an adult tanning salon regulated by this chapter, to employ in such establishment, any person who does not have a valid employee license as required by SCC 6.30.055.

6.30.050 Manager license required. No person shall work as a manager in nude house cleaning business, escort business, or adult tanning salon without a valid license issued by the licensing authority.

6.30.055. Employee license required.

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

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

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

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

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

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

6.30.060 Exclusions.

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

(a) Plays, operas, musicals or other dramatic works which are not obscene;

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

(c) Exhibitions or dances which are not obscene.

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

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

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

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

6.30.065 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 effect the validity of the remaining portions of this chapter

PASSED this 24th day of June, 1996.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Richard C. Johnson
Chair

Approved as to Form Only:

James J. Russell
Special Deputy Prosecuting Attorney

ATTEST:

Sheila McCallister
Clerk of Council, asst.

- () APPROVED
() VETOED
() EMERGENCY

DATE: 4/26/96
[Signature]
County Executive

ATTEST:

Maureen B. Abel