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## Ordinance No. 107232

AN ORDINANCE relating to the Seattle Criminal Code (Ordinance 102843), amending Section 12A.01.140 effective immediately to add thereto the definition of sexual conduct, and declaring an emergency.

3-1-78 PSJT Pass

MAR 6 1978 - Hold 1 week

COMPTROLLER  
FILE NUMBER

## Council Bill No. 99231

INTRODUCED: FEB 27 1978	BY: <u>LEGISLATIVE REQUEST</u>
REFERRED: FEB 27 1978	TO: <u>PUB. SAFETY &amp; JUSTICE</u>
REFERRED:	
REPORTED: MAR 6 1978	SECOND READING: MAR 6 1978
THIRD READING: MAR 13 1978	SIGNED: MAR 13 1978
PRESENTED TO MAYOR: MAR 14 1978	APPROVED: MAR 21 1978
REFD. TO CITY CLERK: MAR 21 1978	PUBLISHED:
VETOED BY MAYOR:	VETO PUBLISHED:
PASSED OVER VETO:	VETO SUSTAINED:

ORDINANCE 107232

AN ORDINANCE relating to the Seattle Criminal Code (Ordinance 102843), amending Section 12A.01.140, effective immediately, to add thereto the definition of sexual conduct, and declaring an emergency.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 12A.01.140 of the Seattle Criminal Code (Ordinance 102843) is amended to read as follows:

Section 12A.01.<sup>150</sup>~~140~~ \* Definitions. In this Title 12A, unless a different meaning plainly is required:

- (1) "Act" or "action" means a bodily movement whether voluntary or involuntary;
- (2) "Acted" includes, where relevant, omitted to act;
- (3) "Actor" includes, where relevant, a person failing to act;
- (4) "Bodily injury" or "physical injury" means significant:
  - (a) physical pain; or
  - (b) illness; or
  - (c) an impairment or physical condition;
- (5) "Conduct" means an action or omission and its accompanying state of mind, or, where relevant, a series of acts or omissions;
- (6) "Deadly force" means force which creates a substantial risk of causing death or serious bodily injury;
- (7) "Deadly weapon" means an explosive, firearm, or other weapon, device, instrument, article or substance, including a "vehicle" as defined in this section 12A.01.150, which, under the circumstances in which it is used, attempted to be used, or threatened to be

\*corrected by Ord 107309

1           used, is readily capable of causing death or serious  
2           bodily injury;

3           (8) "Dwelling" means any building or structure, though  
4           movable or temporary, or a portion thereof, which is  
5           for the time being used as a home or place of lodging;

6           (9) "Element of an offense" means (i) such conduct or (ii)  
7           such attendant circumstances, or (iii) such a result  
8           of conduct as:

9           (a) is included in the description of the forbidden  
10           conduct in the definition of the offense; or

11           (b) establishes the required kind of culpability; or

12           (c) negates an excuse or justification for such  
13           conduct; or

14           (d) negates a defense under the statute of limitations;  
15           or

16           (e) establishes jurisdiction;

17           (10) "Forcible felony" means any felony which involves  
18           the use or threat of physical force or violence  
19           against any person;

20           (11) "Judge" includes every judicial officer authorized,  
21           alone or with others, to hold or preside over a court;

22           (12) "Material element of an offense" means an element that  
23           does not relate exclusively to the statute of limitations,  
24           jurisdiction or to any other matter similarly uncon-  
25           nected with (i) the harm or evil, incident to conduct,  
26           sought to be prevented by the law defining the offense,  
27           or (ii) the existence of a justification or excuse for  
28           such conduct;

- 1 (13) "Motor vehicle" means every vehicle which is self-  
2 propelled or propelled by electric power obtained  
3 from overhead trolley wires;
- 4 (14) "Officer" and "public officer" has its ordinary  
5 meaning and includes all assistants, deputies, clerks  
6 and employees of any public officer and all persons  
7 exercising or assuming to exercise any of the powers  
8 or functions of a public officer;
- 9 (15) "Omission" means a failure to act;
- 10 (16) "Ordinance" means an ordinance of the City of Seattle;
- 11 (17) "Peace officer" means a public officer charged with  
12 the duty to enforce public order and to make arrests  
13 for offenses under this title or under the criminal  
14 laws of the state;
- 15 (18) "Person", "he" and "actor" include any natural person,  
16 and, in addition, a corporation or an unincorporated  
17 association unless a contrary intention plainly  
18 appears;
- 19 (19) "Prison" or "jail" means any place designated by law  
20 for the keeping of persons held in custody under  
21 process of law, or under lawful arrest;
- 22 (20) "Prisoner" includes any person held in custody under  
23 process of law, or under lawful arrest;
- 24 (21) "Property" includes both real and personal property;
- 25 (22) "Reasonably believes" or "reasonable belief" designates  
26 a belief which the actor is not reckless or criminally  
27 negligent in holding;
- 28

1           (23) "Serious bodily injury" or "serious physical injury"  
2           means bodily injury which creates a substantial risk  
3           of death or which causes serious disfigurement, or  
4           protracted loss or impairment of the function of any  
5           bodily member or organ;

6           (24) "Sexual conduct" means any of the following:

7                 (a) sexual intercourse in its ordinary sense which  
8                 occurs upon any penetration, however slight, or  
9                 contact between persons involving the sex organs  
10                of one and the mouth or anus of another;

11               (b) masturbation, manual or instrumental, of one  
12                person by another.

13           (25) "Statute" means the Constitution or an Act of the  
14           Legislature of this State;

15           (26) "Vehicle" means every device which may be used  
16           on a street, on rails, in the air, or on water,  
17           which is capable of transporting persons or property;

18           (27) "Voluntary" has the meaning specified in Section  
19           12A.02.010.

20           Section 2. Recent court decisions in other jurisdictions  
21           have held the phrase "sexual conduct" to be unconstitutionally  
22           vague where not defined by the criminal law in which the phrase  
23           occurs. Because it appears that the Seattle Criminal Code  
24           presently suffers the same defect, prosecutions for prostitution  
25           and pimping will not be entertained by the Seattle Municipal  
26           Court until the ordinance is amended. It is therefore necessary  
27           that this amendatory ordinance become effective immediately upon  
28           passage by vote of three-fourths of all of the members of the

1 City Council and approval by the Mayor, in order to preserve the  
2 public peace, health and safety of the City.

3 Section 3. By reason of the facts stated above and the  
4 emergency which is hereby declared to exist, this ordinance shall  
5 become effective immediately upon the approval or signing of the  
6 same by the Mayor or passage over his veto as provided by the  
7 Charter of the City.

8 PASSED by three-fourths vote of all the members of the City  
9 Council the 13 day of March, 1978, and signed by  
10 me in open session in authentication of its passage this 13  
11 day of March, 1978.

12  
13 Phyllis Lamphere  
14 President of the City Council

15 Approved by me this 21 day of March, 1978.

16 Charles Royer  
17 Mayor

18 Filed by me this 21 day of March, 1978.

19 ATTEST: E. L. King  
20 City Comptroller and City Clerk

21 Rayne Angerine  
22 Deputy

23 (SEAL)

24 Published \_\_\_\_\_  
25  
26  
27  
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# The City of Seattle--Legislative Department

MR. PRESIDENT:

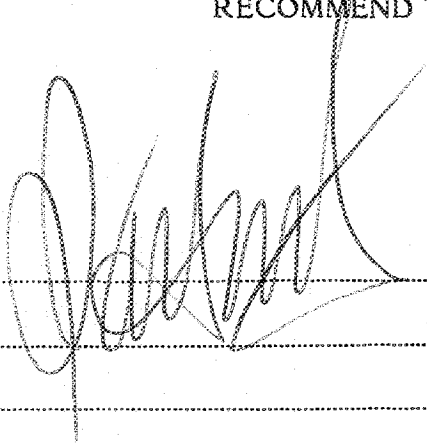
Date Reported  
and Adopted

Your Committee on PUBLIC SAFETY & JUSTICE  
to which was referred C.B. 99231

~~MAR 6~~ 1978

Relating to the Seattle Criminal Code (Ordinance 102843),  
amending Section 12A.01.140 effective immediately to add  
thereto the definition of sexual conduct, and declaring an emer-  
gency.

RECOMMEND THAT THE SAME DO PASS



PS&J  
Chairman

Chairman

3-6-78 motion to hold one week

Committee

Committee

# The City of Seattle--Legislative Department

MR. PRESIDENT:

Date Reported  
and Adopted

Your Committee on PERSONNEL AND PROPERTY MANAGEMENT

MAR 13 1978

to which was referred

C.B. 99235

Relating to the Engineering Department; fixing compensation for certain positions therein which are filled by persons represented by Public Service Employees Local #674 and superseding the Salary Ordinance to the extent inconsistent.

RECOMMEND THAT THE SAME DO PASS

P&PM  
Chairman

Chairman

Committee

Committee

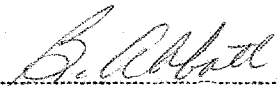
**Affidavit of Publication****STATE OF WASHINGTON  
KING COUNTY—SS.**

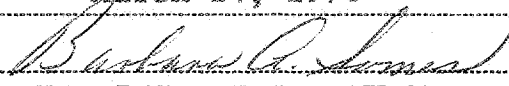
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a .....

.....  
Ordinance No. 107232  
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.....  
was published on March 24, 1978  
.....  
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.....  
Subscribed and sworn to before me on  
March 24, 1978  
.....

.....  
  
.....  
Notary Public for the State of Washington,  
residing in Seattle.

# ORDINANCE 107922

AN ORDINANCE relating to the Seattle Criminal Code (Ordinance 102942), amending Section 12A.01.140, effective immediately, to add thereto the definition of sexual conduct, and declaring an emergency.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 12A.01.140 of the Seattle Criminal Code (Ordinance 102942) is amended to read as follows:

Section 12A.01.140 DEFINITIONS. In this Title 12A, unless a different meaning plainly is required:

(1) "Act" or "action" means a bodily movement whether voluntary or involuntary;

(2) "Acted" includes, where relevant, omitted to act;

(3) "Actor" includes, where relevant, a person failing to act;

(4) "Bodily injury" or "physical injury" means significant:

(a) physical pain; or

(b) illness; or

(c) an impairment or physical condition;

(5) "Conduct" means an action or omission and its accompanying state of mind, or, where relevant, a series of acts or omissions;

(6) "Deadly force" means force which creates a substantial risk of causing death or serious bodily injury;

(7) "Deadly weapon" means an explosive, firearm, or other weapon, device, instrument, article or substance, including a "vehicle" as defined in this section 12A.01.150, which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious bodily injury;

(8) "Dwelling" means any building or structure, though movable or temporary, or a portion thereof, which is for the time being used as a home or place of lodging;

(9) "Element of an offense" means (i) such conduct or (ii) such attendant circumstances,

or (iii) such a result of conduct as:

(a) is included in the description of the forbidden conduct in the definition of the offense; or

(b) establishes the required kind of culpability; or

(c) negates an excuse or justification for such conduct; or

(d) negates a defense under the statute of limitations; or

(e) establishes jurisdiction;

(10) "Forcible felony" means any felony which involves the use or threat of physical force or violence against any person;

(11) "Judge" includes every judicial officer authorized alone or with others, to hold or preside over a court;

(12) "Material element of an offense" means an element that does not relate exclusively to the statute of limitations, jurisdiction or to any other matter similarly unconnected with

(i) the harm or evil, incident to conduct, sought to be prevented by the law defining the offense or (ii) the existence of a justification or excuse for such conduct;

(13) "Motor vehicle" means every vehicle which is self-propelled or propelled by electric power obtained from over-

(14) "Prison" or "jail" means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest;

(15) "Prisoner" includes any person held in custody under process of law, or under lawful arrest;

(16) "Property" includes both real and personal property;

(17) "Reasonably believes" or "reasonable belief" designates a belief which the actor is not reckless or criminally negligent in holding;

(18) "Serious bodily injury" or "serious physical injury" means bodily injury which creates a substantial risk of death or which causes serious disfigurement, or protracted loss or impairment of the function of any bodily member or organ;

(19) "SEXUAL CONDUCT" MEANS ANY OF THE FOLLOWING:

(A) SEXUAL INTERCOURSE IN ITS ORDINARY SENSE WHICH OCCURS UPON ANY PENETRATION, HOWEVER SLIGHT, OR CONTACT BETWEEN PERSONS INVOLVING THE SEX ORGANS OF ONE AND THE MOUTH OR ANUS OF ANOTHER;

(B) MASTURBATION, MANUAL OR INSTRUMENTAL, OF ONE PERSON BY ANOTHER;

(20) "Statute" means the Constitution or an Act of the Legislature of this State;

(21) "Vehicle" means every device which may be used on a street, on rails, in the air, or on water, which is capable of transporting persons or property;

(22) "Voluntary" has the meaning specified in Section 12A.05.010.

Section 2. Recent court decisions in other jurisdictions have held the phrase "sexual conduct" to be unconstitutionally vague where not defined by the criminal law in which the phrase occurs. Because it appears that the Seattle Criminal Code presently suffers the same defect, prosecutions for prostitution and pimping will not be entertained by the Seattle Municipal Court until the ordinance is amended. It is therefore necessary that this amendatory ordinance become effective immediately upon passage by vote of three-fourths of all of the members of the City Council and approval by the Mayor, in order to preserve the public peace, health and safety of the City.

Section 3. By reason of the facts stated above and the emergency which is hereby declared to exist, this ordinance shall become effective immediately upon the approval or signing of the same by the Mayor or passage over his veto as provided by the Charter of the City.

PASSED by three-fourths vote of all the members of the City Council the 12th day of March, 1978, and signed by me in open session in authentication of its passage this 13th day of March, 1978.

PHYLLIS LAMPHERE,  
President of the City Council.

Approved by me this 21st day of March, 1978.

CHARLES ROYER,  
Mayor.

Filed by me this 21st day of March, 1978.

Attest: E. L. KIDD,  
City Comptroller and City Clerk.

By WAYNE ANGEVINE,  
(Seal) Deputy.

Publication ordered by E. L. KIDD, Comptroller and City Clerk.