

Ordinance No. 121952

Council Bill No. 115326

AN ORDINANCE relating to regulation of adult entertainment; adding new sections to the Seattle Municipal Code; and amending Sections 6.202.280, 6.202.310, 6.270.010, 6.270.030, 6.270.040, 6.270.050, 6.270.060, 6.270.070, 6.270.090, 6.270.100, 6.270.120, and 6.270.150 of the Seattle Municipal Code

CF No. _____

Date Introduced:	JUL 23 2005		
Date 1st Referred:	JUL 25 2005	To: (committee)	Finance & Budget
Date Re - Referred:		To: (committee)	
Date Re - Referred:		To: (committee)	
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Date Returned to City Clerk:	10/10/05	Date Published:	27 pp <i>[initials]</i>
Date Vetoes by Mayor:		Date Veto Published:	
Date Passed Over Veto:		Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____

Richard J. McMoran
Councilmember

Committee Action:

R.M., RC 8/12/05 Deferred to 9/21/05 Committee Meeting
9/21/05 RJM, ~~PS~~ PS with amendments moved + seconded 2-0
Goes to Full Council 10/03/05

10-3-05 Passed As Amended 5-4

In Favor: Compton, Conlin, Della, Drago, McIver
Against: Groden, Licata, Rawmussen, Steenbroeck

This file is complete and ready for presentation to Full Council. Committee: _____
(initial/date)

Law Dept. Review

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Review

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ORDINANCE

121952

AN ORDINANCE relating to regulation of adult entertainment; adding new sections to the Seattle Municipal Code; and amending Sections 6.202.280, 6.202.310, 6.270.010, 6.270.030, 6.270.040, 6.270.050, 6.270.060, 6.270.070, 6.270.090, 6.270.100, 6.270.120, and 6.270.150 of the Seattle Municipal Code.

WHEREAS, the operation of adult entertainment businesses has historically and regularly been accompanied by secondary effects, including prostitution and other criminal behavior, that are detrimental to the public health, safety, and general welfare of the citizens of Seattle; and

WHEREAS, resources available for responding to problems associated with adult entertainment businesses are limited and will be more efficiently and effectively utilized through improved regulations of adult entertainment premises; and

WHEREAS, amendments to the City's adult entertainment regulations are necessary to protect the public health, safety, and general welfare of the citizens of Seattle; and

WHEREAS, nothing in these amendments is intended to authorize activities that do not comply with other requirements of the Seattle Municipal Code, including Title 23, the Land Use Code, or other applicable law; and

WHEREAS, a Clerk's File, Number 307550, has been opened as a depository for the documents, statements and other written materials received by the Council related to this ordinance; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 6.270.010 of the Seattle Municipal Code is amended as follows:

6.270.010 Findings of fact.

Based on public testimony and other evidence and information before it, the Seattle City Council makes the following findings of fact:

A. Certain conduct occurring on premises offering adult entertainment is detrimental to the public health, safety, and general welfare of the citizens of the City and therefore, such conduct must be regulated as provided herein.



1 B. Regulation of the adult entertainment industry is necessary because in the absence of such
2 regulation significant criminal activity has historically and regularly occurred.

3 C. It is necessary to license entertainers in the adult entertainment industry to prevent the
4 exploitation of minors; to ensure that each such entertainer is an adult; and to ensure that such
5 entertainers have not assumed a false name, which would make regulation of the entertainer difficult or
6 impossible.

7 D. It is necessary to have a licensed manager on the premises of an establishment during the
8 establishment's hours of operation so that there will at all necessary times be an individual responsible
9 for the overall operation of the establishment, including the actions of ((patrons)) members of the public,
10 entertainers and other employees.

11 E. The license fees required herein are nominal fees imposed as necessary regulatory measures
12 designed to help defray the substantial expenses incurred by the City in regulating the adult
13 entertainment industry.

14 F. Businesses providing adult entertainment are increasingly associated with ongoing
15 prostitution, disruptive conduct and other criminal activity which is currently not subject to effective
16 regulation and which constitutes an immediate threat to the public peace, health and safety.

17 G. The City Council makes the following additional findings of fact based upon public
18 testimony and other evidence, information, documents and other materials received by the City Council
19 and included in the legislative record of Council Bill 115326. The City Council also makes such
20 findings having taken legislative notice of the evidence of conduct occurring in and around adult
21 entertainment businesses located in other jurisdictions, which the council hereby deems to be relevant to
22 the experience in Seattle, as reported in judicial opinions including but not limited to *Ino Ino, Inc. v. City*
23 *of Bellevue*, 132 Wn.2d 103 (1997); *DCR, Inc. v. Pierce County*, 92 Wn. App. 660 (1998); *Kev, Inc. v.*
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1 Kitsap County, 793 F.2d 1053 (9th Cir. 1986), and Colacurcio v. City of Kent, 163 F.3d 545 (9th Cir.
2 1998) and as reported in previous studies of the City of Seattle and the findings of other city and county
3 legislative bodies that have also adopted ordinances regulating adult entertainment businesses,
4 including, but not limited to, the counties of King and Snohomish and the cities of Bellevue, Burien, Des
5 Moines, Everett, Federal Way, Kent, Lake Forest Park, Lynnwood, Renton, Shoreline and Tukwila.

6 1. The operation of adult entertainment businesses has historically and regularly been
7 accompanied by secondary effects which are detrimental to the public health, safety, morals and general
8 welfare of the citizens of Seattle. Such secondary effects include significant criminal conduct, and
9 activities injurious to the public health, safety, morals and general welfare of the community,
10 detrimental effects on nearby businesses and residential areas and a decline in property values in the area
11 around adult entertainment businesses. This history of criminal and injurious activity includes
12 prostitution, narcotics and liquor law violations, breaches of the peace, assaults, sexual conduct between
13 customers and entertainers, and the opportunity for the spread of sexually-transmitted diseases.

14 2. Proximity between entertainers and customers in adult clubs facilitates sexual conduct,
15 prostitution, transactions involving controlled substances and other crimes. To deter such conduct and
16 assist law enforcement in detecting it, Seattle has required that an adult entertainer exposing nudity must
17 be separated from customers by performing on a stage at least eighteen inches above the floor and at
18 least six feet from the nearest patron. Additionally, Seattle has historically prohibited entertainers
19 performing "lap" or "table" dances from engaging in sexual contact with customers. There is substantial
20 evidence that such prohibitions are ineffective. Lap and table dances typically involve exposure of
21 nudity or sexual conduct between entertainers and customers, or both, and may also include acts of
22 prostitution, transactions involving controlled substances and other crimes. To effectively deter such
23 conduct and assist law enforcement in detecting it, it is necessary that dances and performances by adult
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1 entertainers mingling with the public be at least four feet from the nearest member of the public. Such a
2 requirement is in effect in the City of Bellevue and in other Washington cities and has been upheld by
3 the Washington Supreme Court as a constitutional regulation that furthers the governmental interest in
4 preventing sexual conduct and other criminal conduct while still allowing an entertainer to convey an
5 erotic expression (see *Ino Ino, Inc. v. City of Bellevue*, 132 Wn.2d 103 (1997)).

6 3. To prevent sexual conduct from occurring between entertainers and customers, customers
7 must be prohibited from passing tips, gratuities or other payments directly to entertainers. Such a
8 prohibition is in effect in King County, the City of Kent and the City of Bellevue and has been upheld as
9 a constitutional regulation that furthers the governmental interest in preventing sexual contact and other
10 criminal conduct while still allowing an entertainer to perform (see *Ino Ino, Inc. v. City of Bellevue*, 132
11 Wn.2d 103, 937 P.2d 154 (1997) and *DCR, Inc v. Pierce County*, 92 Wn. App 660. (1998)).

12 4. Adult entertainment businesses have historically attempted to prevent law enforcement and
13 licensing officials from detecting sexual conduct, prostitution, sale and distribution of controlled
14 substances and other violations of law occurring on the premises by employing warning systems,
15 maintaining low light levels and other techniques. Some adult entertainment businesses have erected
16 barriers or installed seating or lounge areas which provide visual barriers that screen activities between
17 entertainers and members of the public. For effective enforcement of this ordinance and protection of
18 the public health, safety, and general welfare, it is necessary to require that adult entertainment
19 businesses maintain minimum light levels and contain no barriers which would hinder law enforcement
20 from monitoring the activities between adult entertainers and members of the public.

21 5. Resources available for responding to problems associated with adult entertainment
22 businesses are limited and will be more efficiently and effectively utilized through regulations which
23 will deter sexual contact between adult entertainers and members of the public, including regulations
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1 requiring minimum distance requirements between dancers and members of the public, the absence of
2 visual barriers, minimum lighting requirements and tipping restrictions.

3 **Section 2.** Section 6.270.030 of the Seattle Municipal Code is amended as follows:

4 **6.270.030 Definitions.**

5 For the purposes of this chapter and unless the context plainly requires otherwise, the following
6 definitions are adopted:

7 A. "Adult entertainment" means any exhibition, performance or dance of any type conducted in
8 a premises where such exhibition, performance or dance involves a person who:

9 1. Is unclothed or in such attire, costume or clothing as to expose to view any portion of the
10 breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or
11 genitals; or

12 2. Touches, caresses or fondles the breasts, buttocks, anus, genitals or pubic region of another
13 person, or permits the touching, caressing or fondling of his/her own breasts, buttocks, anus,
14 genitals or pubic region by another person, with the intent to sexually arouse or excite another
15 person.

16 B. "Adult entertainment premises" means any premises to which any member of the public(~~(;~~
17 ~~patrons or members are))~~ is invited or admitted and wherein an entertainer provides adult entertainment
18 to any member of the public(~~(, a patron, or a member))~~; but does not include that portion of an
19 establishment licensed or required to be licensed as a "panoram" or "peepshow" under the provisions of
20 Seattle Municipal Code Chapter 6.42.

21 C. "Department" means the Department of Executive Administration of The City of Seattle.

22 D. "Director" means the Director of the Department of Executive Administration of The City of
23 Seattle and shall include his or her authorized representatives.



1 E. "Employee" means any and all persons, including managers, entertainers and independent
2 contractors, who work in or at or render any services directly related to, the operation of an adult
3 entertainment premises.

4 F. "Entertainer" means any person who provides adult entertainment within an adult
5 entertainment premises as defined in this section, whether or not a fee is charged or accepted for
6 entertainment.

7 G. "Entertainment" means any exhibition or dance of any type, pantomime, modeling or any
8 other performance.

9 H. "Manager" means any person who manages, directs, administers, or is in charge of, the
10 affairs and/or conduct of any portion of any activity involving adult entertainment occurring at any adult
11 entertainment premises.

12 I. "Member of the public" means any customer, patron, club member, or person, other than an
13 employee as defined in this section, who is invited or admitted to an adult entertainment premises.

14 ~~((F))~~J. "Natural person" means any individual.

15 ~~((J))~~K. "Operator" means any person operating, conducting or maintaining an adult
16 entertainment business. "Operator" also means any person to whom an adult entertainment premise
17 license is issued pursuant to this chapter.

18 ~~((K))~~L. "Person" means any individual, partnership, corporation, trust, incorporated or
19 unincorporated association, marital community, joint venture, governmental entity, or other entity or
20 group of persons however organized.

21 ~~((L))~~M. "Public place" means any area generally visible to public view and includes streets,
22 sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles whether moving or
23 not.

1 ~~((M. "Reckless" or "recklessly" means a person knows of and disregards a substantial risk that a~~
2 ~~wrongful act may occur and his or her disregard of such substantial risk is a gross deviation from~~
3 ~~conduct that a reasonable person would exercise in the same situation.))~~

4 **Section 3.** Section 6.270.040 of the Seattle Municipal Code is amended as follows:

5 **6.270.040 Adult entertainment premises license.**

6 A. It is unlawful for any person to operate or maintain an adult entertainment premises in The
7 City of Seattle unless the owner, operator or lessee thereof has obtained from the Director ~~((of Executive~~
8 ~~Administration))~~ a license to do so, to be designated an "adult entertainment premises license."

9 B. It is unlawful for any person to knowingly allow the use of his or her property for the
10 operation of an adult entertainment premises that is not licensed under this chapter.

11 C. It is unlawful for any entertainer, employee or manager to knowingly work in or about, or to
12 knowingly perform any service or entertainment directly related to the operation of, an unlicensed adult
13 entertainment premises.

14 **Section 4.** Section 6.270.050 of the Seattle Municipal Code is amended as follows:

15 **6.270.050 License for managers and entertainers.**

16 ~~((Commencing December 5, 1988, it shall be))~~ A. It is unlawful for any person to work as an
17 entertainer ~~((or manager))~~ at an adult entertainment premises without having first obtained from the
18 Director ~~((of Executive Administration))~~ a license to do so, to be designated as an "adult entertainer's
19 license~~((s))~~" ~~((or an "adult entertainment manager's license," respectively))~~.

20 B. It is unlawful for any person to work as a manager at an adult entertainment premises without
21 having first obtained from the Director a license to do so, to be designated as an "adult entertainment
22 manager's license."

23 **Section 5.** Section 6.270.060 of the Seattle Municipal Code is amended as follows:



6.270.060 License fees.

The license year for adult entertainment premises licenses and adult entertainment manager's licenses ((all fees)) required under this chapter shall be from January 1st to December 31st. The license year for adult entertainer's licenses required under this chapter shall be from August 1st to July 31st.

All license fees shall be payable on an annual basis, which fees shall be as follows:

A. Adult entertainment premises license, Seven Hundred Twenty Dollars (\$720.00) per year;

B. Adult entertainer's license, One Hundred Forty-five Dollars (\$145.00) per year;

C. Adult entertainment manager's license, One Hundred Forty-five Dollars (\$145.00) per year.

Any adult entertainer's license issued pursuant to this chapter which is in effect prior to August 1, 2005 shall, unless suspended or revoked, continue to be in effect until December 31, 2005 and may, unless suspended or revoked, be renewed for the period January 1, 2006 to July 31, 2006, subject to the provisions of this chapter and payment of a proportional license fee for such period in the amount of Eighty-four Dollars and Fifty Cents (\$84.50).

Section 6. A new section is added to the Seattle Municipal Code as follows:

6.270.065 License prohibited to certain classes.

No license authorized under this chapter shall be issued to:

A. A natural person who has not attained the age of eighteen (18) years.

B. A partnership, unless all of the members thereof are individually qualified to obtain a license as provided by this chapter. Such license shall be issued to the manager of the partnership.

C. A corporation, unless all of the officers and directors thereof are individually qualified to obtain a license as provided by this chapter.

1 **Section 7.** Section 6.270.070 of the Seattle Municipal Code is amended as follows:

2 **6.270.070 License applications.**

3 A. Adult Entertainment Premises License. All applications for an adult entertainment premises
4 license shall be submitted in the name of the person proposing to conduct such adult entertainment on
5 the premises and shall be signed by such person and notarized or certified as true under penalty of
6 perjury. All applications shall be submitted on a form supplied by the Director (~~of Executive~~
7 ~~Administration~~)), and shall require the following information:

- 8 1. The name, residence address, home telephone number, date and place of birth, and social
9 security number of the applicant;
- 10 2. The business name, address and telephone number of the establishment;
- 11 3. The names, residence addresses, residence telephone numbers, social security numbers and
12 dates of births of any partners, corporate officers and directors;
- 13 4. Such information as the Director, by rule, may require concerning the identity of corporate
14 shareholders;
- 15 5. Addresses of the applicant for the five (5) years immediately prior to the date of application;
- 16 6. A description of the adult entertainment or similar business history of the applicant; whether
17 such person or entity, in previously operating in this or another city, county or state, has had a
18 business license revoked or suspended, the reason therefor, and the activity or occupation
19 subjected to such action, suspension or revocation;
- 20 7. A description of the business, occupation, or employment of the applicant for the three (3)
21 years immediately preceding the date of application;



8. ~~((Such license shall include t))~~The name of at least one (1) natural person whose name and mailing address, which shall be an address located within the State of Washington, shall appear on the adult entertainment premises license and who shall receive notices from the Department.

9. Whether the applicant has had a license under this chapter or an adult entertainment-related license issued by another jurisdiction, denied, suspended or revoked within the three (3) years immediately preceding the date of the application: and, if so, the name and location of the adult entertainment business to which the denied, suspended or revoked license pertained, the date of the action, the jurisdiction that took such action, the reason for the action, and the status of any appeal of the action.

10. Whether the applicant has been the subject of a bail forfeiture, adverse finding or conviction with local, state, or federal criminal law, other than a parking offense or traffic infraction, within the five (5) years preceding the date of the application; and, if so, the nature of the crime and the date, location and nature of the judicial action taken.

11. A failure to provide information required by this subsection will constitute an incomplete application and will not be processed.

B. Manager's or Entertainer's License. All applications for an adult entertainment manager's license or adult entertainer's license shall be signed by the applicant and notarized or certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the Director, and shall require the following information:

1. The applicant's name, home address, home telephone number, date and place of birth, social security number, and any stage names or nicknames used in entertaining;
2. The name and address of each business at which the applicant intends to work as a manager or entertainer;

3. The applicant shall present documentation that he or she has attained the age of eighteen (18) years. Any of the following shall be accepted as documentation of age:

- a. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth,
- b. A state-issued identification card bearing the applicant's photograph and date of birth,
- c. An official passport issued by the United States of America,
- d. An immigration card issued by the United States of America,
- e. Any other picture identification bearing the applicant's photograph and date of birth issued by a governmental agency, or
- f. Such other form of identification as the Director deems, by rule, to be acceptable;

4. Whether the applicant has had a license under this chapter or an adult entertainment-related license issued by another jurisdiction denied, suspended or revoked within the three (3) years immediately preceding the application; and, if so, the name and location of the adult entertainment business to which the denied, suspended or revoked license pertained, the jurisdiction that took such action, the reason for the action, the date of the action and the status of any appeal of the action;

5. Whether the applicant has been the subject of a bail forfeiture, adverse finding or conviction in connection with local, state or federal criminal law, other than a parking offense or traffic infraction, within the five (5) years immediately preceding the date of the application; and if so, the nature of the crime and the date, location, and nature of the judicial action taken; and

6. Failure to provide information required by this subsection will constitute an incomplete application and will not be processed.



1 C. Duty to Supplement. Each license applicant for, or holder of, a license issued under this
2 chapter shall modify, or supplement application information, on file with the Director, within ten (10)
3 days of a change if the information changes materially from what is stated on the applicant or holder's
4 license application.

5 **Section 8.** Section 6.270.090 of the Seattle Municipal Code is amended as follows:

6 **6.270.090 Issuance of licenses.**

7 A. Adult Entertainment Premises License. Within thirty (30) days of receipt by the Director of a
8 complete application for an adult entertainment premises license, including all submittals and
9 information required by this chapter, the Director shall issue or deny the adult entertainment premises
10 license. If the Director fails to issue or deny the license within the thirty-day (30) period, the license is
11 deemed issued on the last day of the thirty-day (30) period and the applicant may operate the adult
12 entertainment premises for which the license was sought, subject to all other provisions of this chapter.

13 B. ~~((After an investigation, t))~~ The Director shall deny ~~((issue))~~ the ~~((applicable))~~ adult
14 entertainment premises license ~~((or licenses authorized by this chapter))~~ for any of the following
15 reasons, and shall notify the applicant in writing of the reasons for the denial and the opportunity to
16 appeal, if the Director finds:

- 17 1. The application does not meet the requirements of this chapter. ~~((That the business for which~~
18 ~~a license is required herein will not be conducted in a building, structure and location which~~
19 ~~complies with the requirements and meets the standards of the applicable health, zoning,~~
20 ~~building, fire and safety laws of the State, the ordinances of the City, as well as the requirements~~
21 ~~of this chapter;))~~
22 2. ~~((That t))~~ The applicant, his or her employee, agent, partner, director, officer, ~~((stockholder))~~
23 or manager has ~~((not))~~ knowingly made any false, misleading or fraudulent omission or
24



statement of material fact in the application for a license, or in any report or record required to be filed with the Director;

3. ~~((That t))~~The applicant, and all employees, agents, partners, directors, officers, or managers of the applicant have not attained the age of eighteen (18) years or issuance of a license is prohibited by SMC Section 6.270.065((-));

4. The applicant or his or her partner, director, or officer is currently the subject of a final adult entertainment premises license suspension order or is the subject of an adult entertainment premises license revocation order issued pursuant to this chapter which became final less than one (1) year prior to the pending application.

C. Adult Entertainment Manager's and Adult Entertainer's Licenses.

The Director shall issue or deny an adult entertainment manager's license or an adult entertainer's license on the same business day in which a complete application, including all submittals and information required by this chapter, is received.

D. The Director shall deny an application for an adult entertainment manager's license or an adult entertainer's license for any of the following reasons, and shall notify the applicant in writing of the grounds for the denial and the opportunity to appeal, if the Director finds:

1. The applicant is less than eighteen (18) years old;
2. The applicant has failed to provide any of the submittals or information required to be supplied according to this chapter;
3. The applicant has knowingly made any false, misleading or fraudulent statement or omission of material fact in the application for a license; or



4. The applicant is currently the subject of a final license suspension order issued pursuant to this chapter or is the subject of a license revocation order issued pursuant to this chapter which became final less than one (1) year before the pending application.

E. If the Director denies an adult entertainment manager's license or an adult entertainer's license authorized by this chapter, and if the applicant files a timely notice of appeal pursuant to SMC Section 6.270.160, the Director shall, upon receipt of a copy of such notice of appeal, immediately issue the applicant a temporary license which shall authorize the applicant to perform as a manager or entertainer in the same manner and subject to the same requirements as if the license had been granted, pending the final outcome of the appeal. A license applicant must pay the fee for an adult entertainment manager's license or an adult entertainer's license as set forth in SMC Section 5.270.060 at the time the temporary license is issued. The holder of a temporary license is subject to all requirements, standards and penalty provisions of this chapter. Nothing in this section is intended to authorize activities that do not comply with other requirements of the Seattle Municipal Code or other applicable law.

Section 9. Section 6.270.100 of the Seattle Municipal Code is amended as follows:

6.270.100 Standards of conduct and operation.

A. The following standards of conduct must be adhered to by employees of any adult entertainment premises:

1. No employee or entertainer shall be unclothed, clothed in less than opaque attire, or shall move or remove such attire, or allow such attire to be moved or removed so as to expose to view any portion of the breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, except upon a stage as defined in SMC Section 6.270.100 B4 ((at least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from the nearest patron)).



2. No employee or entertainer shall perform acts of or acts which simulate:

- a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;
- b. The touching, caressing or fondling of the breasts, buttocks or genitals; or
- c. The displaying of the pubic region, anus, vulva or genitals; except as provided for in subdivision 1 of this subsection.

3. No employee or entertainer mingling with members of the ~~((patrons))~~ public shall:

- a. ~~((b))~~Be unclothed or in less than opaque and complete attire, costume or clothing as described in subdivision 1 of this subsection;~~((c))~~
- b. Conduct any dance, performance or exhibition unless such dance, performance or exhibition is performed at a distance of at least four (4) feet from the nearest member of the public; or
- c. Conduct any dance, performance or exhibition in any area described in SMC Section 6.270.100 B3.

4. No employee or entertainer shall knowingly:

- a. Touch, caress or fondle the breast, buttocks, anus, genitals or pubic region of another person; or
- b. Permit the touching, caressing or fondling of his or her own breasts, buttocks, anus, genitals or pubic region by another person; or
- c. Permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus, genitals or pubic region of another person.

5. No manager or operator shall knowingly permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus, genitals or pubic region of another person.

6. No employee or entertainer shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva or genitals, anus, buttocks, or any portion of the pubic region.

7. No employee or entertainer shall use artificial devices or inanimate objects to depict any of the prohibited activities described in this subsection.

8. No entertainer of any adult entertainment premises shall be visible from any public place during the hours of his or her employment, or apparent hours of his or her employment, on the premises.

9. No entertainer shall solicit, demand or receive any payment or gratuity from any ~~((patron))~~ member of the public for any act prohibited by this chapter.

10. No entertainer shall demand or collect any payment or gratuity from any ~~((patron))~~ member of the public for entertainment before its completion. No entertainer shall accept any form of gratuity offered directly to the entertainer by any member of the public. Any gratuity offered to any entertainer must be placed into a receptacle for receipt of gratuities provided by the adult entertainment establishment or offered through a manager on duty on the premises.

11. ~~((A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows: THIS ADULT ENTERTAINMENT ESTABLISHMENT IS REGULATED BY THE CITY OF SEATTLE. ENTERTAINERS ARE:~~

a. Not permitted to engage in any type of sexual conduct;

b. ~~No employee or entertainer shall be unclothed, clothed in less than opaque attire, or shall move or remove such attire, or allow such attire to be moved or removed so as to expose to view any portion of the breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, except upon a stage at least eighteen~~

1 inches (18") above the immediate floor level and removed at least six feet (6') from the
2 nearest patron.

3 e. Not permitted to demand or collect any payment or gratuity from any patron for
4 entertainment before its completion.))

5 ((12.)) No manager or operator shall knowingly ((or recklessly)) permit or allow any employee
6 or entertainer to violate any provision of this chapter.

7 B. At any adult entertainment premises, the following are required:

8 1. Neither the performance nor any photograph, drawing, sketch or other pictorial or graphic
9 representation thereof displaying any portion of the breasts below the top of the areola or any
10 portion of the pubic hair, buttocks, genitals and/or anus may be visible outside of the adult
11 entertainment premises.

12 2. Sufficient lighting shall be provided ((in)) and equally distributed throughout ((about)) the
13 parts of the premises which are open to and used by the public so that all objects are plainly
14 visible at all times. A minimum lighting level of thirty (30) lux horizontal, measured at thirty
15 (30) inches from the floor and on ten (10)-foot centers, is hereby established for all parts of the
16 premises which are open to and used by the public.

17 3. No entertainment shall be provided in any area((s)) from which any other person may be
18 prevented from entering, whether by a locking door or in any other manner and no entertainment
19 shall be provided in any area which is enclosed or partially enclosed by interior walls, dividers,
20 barricades, curtains or other means or in any area in which the dance, performance or exhibition
21 is not clearly visible from all public areas inside the adult entertainment premises.

22 4. A stage, for any performance described in SMC Section 6.270.100 A1. Such stage shall be at
23 least eighteen (18) inches in elevation above the level of the patron seating areas and shall be
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1 separated by a distance of at least six (6) feet from all areas of the premises to which the
2 members of the public have access. A continuous railing, at least three (3) feet in height and
3 located at least six (6) feet from all points of the stage, shall separate the stage from seating areas
4 for members of the public.

5 5. The stage must be visible immediately upon entering the premise's seating area, and, at all
6 times, be visible to a manager. Visibility shall not be blocked or obstructed by a door, curtain,
7 drape or any other obstruction.

8 6. A sign shall be conspicuously displayed in the common area of the premises, and shall read as
9 follows:

10 THIS ADULT ENTERTAINMENT ESTABLISHMENT IS REGULATED BY THE CITY OF
11 SEATTLE.

12 a. Entertainers are not permitted to engage in any type of sexual conduct;

13 b. No employee or entertainer shall be unclothed, clothed in less than opaque attire, or
14 shall move or remove such attire, or allow such attire to be moved or removed so as to
15 expose to view any portion of the breast below the top of the areola or any portion of the
16 pubic region, anus, buttocks, vulva or genitals, except upon a stage at least eighteen (18)
17 inches above the immediate floor level and removed at least six (6) feet from the nearest
18 member of the public.

19 c. Entertainers are not permitted to demand or collect any payment or gratuity from any
20 member of the public for entertainment before its completion.

21 d. Entertainers are not permitted to accept any form of gratuity directly from a member
22 of the public. Any gratuity offered to any entertainer must be placed into a receptacle for

receipt of gratuities provided by the adult entertainment establishment or offered through a manager on duty on the premises.

e. Entertainers mingling with the public may not conduct any dance, performance or exhibition unless such dance, performance or exhibition is performed at a distance of at least four (4) feet from the nearest member of the public.

7. Each adult entertainment premises licensee and each adult entertainment manager shall have a duty to ensure that all standards of conduct and facilities requirements set forth in this section and all other requirements of this chapter regarding the operation of adult entertainment premises are complied with at all times.

8. Each adult entertainment premises licensee shall conspicuously display and enforce a standard of conduct applicable to members of the public while they are on the premises. The Director shall promulgate implementing regulations, including required content of the standard of conduct, required content and method of the display, and the required manner of enforcement of the standard of conduct by adult entertainment premises licensees.

C. This chapter shall not be construed to prohibit protected expression, such as:

1. Plays, operas, musicals, or other dramatic works that are not obscene;
2. Classes, seminars and lectures held for serious scientific or educational purposes that are not obscene; or
3. Exhibitions, performances, expressions or dances that are not obscene.

D. For purposes of this chapter, an activity is "obscene" if:

1. Taken as a whole by an average person applying contemporary community standards the activity appeals to a prurient interest in sex;

2. The activity depicts patently offensive representations, as measured against community standards, of:

- a. Ultimate sexual acts, normal or perverted, actual or simulated, or
- b. Masturbation, fellatio, cunnilingus, bestiality, excretory functions, or lewd exhibition of the genitals or genital area; or violent or destructive sexual acts, including but not limited to human or animal mutilation, dismemberment, rape or torture; and

3. The activity taken as a whole lacks serious literary, artistic, political, or scientific value.

E. No manager, owner, entertainer or employee shall operate or maintain any warning procedures or device, of any nature or kind, for the purpose of warning any other person that police officers or City health, fire, licensing or building inspectors are approaching or have entered the adult entertainment premises.

~~((F. It is unlawful for any person to violate any of the provisions of this Section 6.270.100.))~~

Section 10. A new section is added to the Seattle Municipal Code as follows:

6.270.115 Unlawful Acts

It is unlawful for any person to violate any of the provisions of this chapter.

Section 11. Section 6.270.120 of the Seattle Municipal Code is amended as follows:

6.270.120 Manager on premises.

A. A licensed manager shall be on duty at an adult entertainment premises during the adult entertainment premises' hours of operation. The name of the manager on duty shall be prominently posted during business hours.

B. Any adult entertainment premises found to be operating without a manager on duty shall be immediately closed until a licensed manager arrives for duty at the adult entertainment premises pursuant to Section 6.270.120 A.

1 C. The manager shall verify that each entertainer performing while the manager is on duty
2 possesses a current and valid entertainer's license, as required by this chapter. The manager shall verify
3 that such adult entertainment license is posted in the manner required by Section 6.270.110.

4 D. A manager shall not perform as an entertainer on days during which he or she acts as
5 manager on duty at an adult entertainment establishment.

6 **Section 12.** A new section is added to Chapter 6.270 of the Seattle Municipal Code as follows:

7 **6.270.125 Permission to Inspect.**

8 An adult entertainment premises licensee and its manager shall permit the Director and personnel
9 from the Seattle Police Department to conduct announced inspections, during hours that the adult
10 entertainment premises is open to the public, of all exterior and interior areas of the premises open to
11 and used by members of the public and of all books and records required to be kept under this chapter.
12 The purpose of such inspections is to determine whether the premises are being operated in compliance
13 with the provisions of this chapter.

14 **Section 13.** A new section is added to Chapter 6.270 of the Seattle Municipal Code as follows:

15 **SMC 6.270.135 Nonpublic Areas.**

16 No member of the public shall be permitted to enter into any of the nonpublic portions of the
17 adult entertainment establishment, which shall include but are not limited to: the dressing rooms of
18 entertainers or other rooms provided for the benefit of employees, and the kitchen and storage areas;
19 except that persons delivering goods and materials, food and beverages, or performing maintenance or
20 repairs to the premises or equipment on the premises may be permitted into nonpublic areas to the extent
21 required to perform their job duties.

22 **Section 14.** Section 6.270.150 of the Seattle Municipal Code is amended as follows:

23 **6.270.150 Suspension or revocation of ((premises)) license.**

~~((In addition to the reasons set forth in SMC Section 6.202.230 as now or hereafter amended, an adult entertainment premises license may be suspended or revoked upon a finding that:~~

~~A. The premises licensee permitted or authorized his or her employees, agents, entertainers or managers to violate any of the provisions of this chapter; or~~

~~B. The adult entertainment manager permitted or authorized any violation of any of the provisions of this chapter by any person.))~~

A. The Director may suspend or revoke a license issued under this chapter in accordance with the following:

1. If a licensee obtained or renewed a license through a false, misleading or fraudulent omission or statement of material fact either on the application for the license or the license renewal, the license shall be revoked;

2. If a licensee violates any other provision of this chapter, the license shall be:

a. Suspended for thirty (30) days for a first violation.

b. Suspended for ninety (90) days for a second violation within any twenty-four (24) month period.

c. Revoked for a third violation within any twenty-four (24) month period.

3. Time spent serving a suspension is not counted in determining the twenty-four (24) month period referred to in subsection A2 of this section.

4. For an adult entertainment premises licensee, a violation for which an adult entertainment premises license may be suspended or revoked includes a violation of this chapter by a manager, employee, agent, entertainer or any other person, occurring on the premises when the adult entertainment premises licensee knew of or should have known of the violation.

1 5. For an adult entertainment manager licensee, a violation for which an adult entertainment
2 manager's license may be suspended or revoked includes a violation of this chapter by an adult
3 entertainer or other person when the adult entertainment manager knew of or should have known
4 of the violation.

5 6. If a licensee is convicted of committing a crime or offense involving one of the following
6 occurring on the premises of an adult entertainment establishment, the license shall be revoked:

7 a. A violation of RCW 9A.88.030, 9A.88.070, 9A.88.080 or 9A.88.090;

8 b. A violation of SMC Sections 12A.10.020 or 12A.10.060;

9 c. A transaction involving a controlled substance as defined in chapter 69.50 RCW; or

10 d. A violation of chapter 9A.44 RCW, Sex Offenses or chapter 9.68A RCW, Sexual

11 Exploitation of Children.

12 B. For an adult entertainment premises licensee, a conviction for which the adult entertainment
13 premises license may be revoked includes the conviction of a manager, employee, agent or entertainer
14 for a crime or offense listed in subsection A6 of this section occurring on the premises of the adult
15 entertainment establishment when the adult entertainment premises licensee knew of or should have
16 known of the crime or offense.

17 C. For an adult entertainment manager licensee, a conviction for which the adult entertainment
18 manager's license may be revoked includes the conviction of an employee or entertainer for a crime or
19 offense listed in subsection A6 of this section occurring on the premises of the adult entertainment
20 establishment when the adult entertainment manager licensee knew of or should have known of the
21 crime or offense.

22 D. A licensee whose license has been revoked is not eligible to reapply for any license
23 authorized by this chapter for one year following the date the decision to revoke is final.

1 E. On receipt of a notice of suspension or revocation, the license holder shall promptly deliver
2 the license to the Director unless an appeal is pending under this chapter. Upon expiration of a license
3 suspension, the Director shall return the license to the license holder.

4 F. For purposes of this section, a person "should have known" of a crime or offense or violation
5 of this chapter, when the person has information which would lead a reasonable person to believe that a
6 crime or offense or violation of this chapter is occurring or will occur.

7 G. If the Director determines that a condition exists on an adult entertainment premises which
8 constitutes a threat of immediate serious injury or damage to a person or property, the Director may
9 immediately suspend an adult entertainment premises license. The Director shall issue a notice setting
10 forth the basis for the action and the facts that constitute a threat of immediate serious injury or damage
11 to a person or property.

12 **Section 15.** A new section is added to Chapter 6.270 if the Seattle Municipal Code as follows:

13 **6.270.170 Public Nuisance.**

14 An adult entertainment premises operated, conducted or maintained in violation of this chapter or
15 any law of the City of Seattle or the State of Washington shall be, and the same is, declared to be
16 unlawful and a public nuisance. The City Attorney may, in addition to, or in lieu of, any other remedies
17 set forth in this chapter, commence an action to enjoin, remove or abate such nuisance and may take
18 such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will
19 abate or remove such public nuisance, and restrain and enjoin any person from operating, conducting or
20 maintaining an adult entertainment premises contrary to the provisions of this chapter.

21 **Section 16.** Section 6.202.280 of the Seattle Municipal Code is amended as follows:

22 **6.202.280 Continuation of business while complaint hearing decision pending**

1 A. Except in the case of summary suspension or revocation, whenever a timely request for
2 hearing on a complaint is filed, a licensee or an applicant for license renewal may engage in the activity
3 for which the license is required, pending decision by the Hearing Examiner. An applicant not licensed
4 in the preceding license year may not engage in the activity for which the license is required pending
5 decision by the Hearing Examiner. Nothing in this section is intended to authorize activities that do not
6 comply with other requirements of the Seattle Municipal Code or other applicable law.

7 B. If the Department denies an adult entertainment license governed by SMC Chapter 6.270, and
8 if the license applicant files a notice of appeal with the Hearing Examiner, the Director shall
9 immediately issue the license applicant a temporary license. The temporary license shall authorize the
10 license applicant to operate an adult entertainment establishment or perform as a manager or entertainer,
11 in the same manner as if the license had been granted, pending the Hearing Examiner's decision.

12 1. If the Hearing Examiner affirms the Director's license denial, the temporary license
13 shall remain in effect pending a motion for reconsideration before the Hearing Examiner
14 and, in addition (a) if the license applicant does not timely file for judicial review, then
15 only until the expiration of the time allowed to file an application for a writ of review
16 under Chapter 7.16 RCW; or (b) if the license applicant does timely file an application
17 for a writ of review, then only until the court either issues a writ or denies the writ
18 application.

19 2. If the Hearing Examiner dismisses the adult entertainment license denial with
20 prejudice, the Department shall immediately issue an adult entertainment license.

21 3. If the Hearing Examiner dismisses the adult entertainment denial without prejudice,
22 the temporary license shall remain in effect for five (5) additional business days, at the
23 end of which time the Department must either reissue a denial or issue an adult
24

entertainment license. If the Director reissues the denial, then the temporary license will continue in effect according to the procedures set forth in subsection B of this section.

4. Notwithstanding SMC Section 6.202.210, if a license applicant is issued a temporary license, the license applicant shall pay the fee charged for an adult entertainment license under SMC Section 6.270.060 at the time the applicant receives the temporary license. If the temporary license issued under this subsection is still in effect at the end of a calendar year, then the license applicant must pay the fee charged for an adult entertainment license under SMC Section 6.270.060 for the next calendar year.

Section 17. Effective Dates for Specified Provisions.

A. The following provisions of Section 9 of this ordinance shall take effect as provided in this section -- provisions that would amend SMC Section 6.270.100 by:

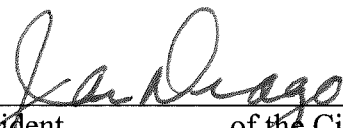
1. adding new Subsections A.3.b and A.3.c;
2. amending Subsection A.10;
3. amending Subsection B.2;
4. amending Subsection B.3;
5. adding new Subsections B.4 and B.5;
6. adding new Subsections B.6.d and B.6.e; and,
7. adding a new Subsection B.8.

B. The provisions identified above shall take effect 150 days after the effective date of this ordinance, or 30 days after the Chair of the City Council Urban Development and Planning Committee certifies to the City Clerk that the Executive has transmitted to the City Council proposed legislation to amend the Land Use Code provisions regarding adult entertainment premises, whichever is later. In order to be so certified, such proposed legislation shall include an identification of zones in which the

use is permitted, and location criteria including provisions such as minimum proposed distances between licensed adult entertainment premises and single family residential zones, schools, churches, and other licensed adult entertainment premises.

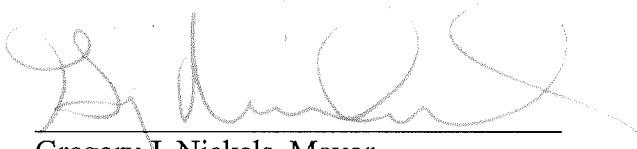
Section 18. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 3rd day of October, 2005, and signed by me in open session in authentication of its passage this 3rd day of October, 2005.



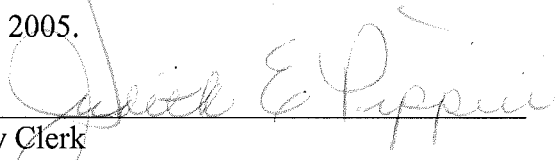
President _____ of the City Council

Approved by me this 10th day of October, 2005.



Gregory J. Nickels, Mayor

Filed by me this 10th day of October, 2005.



City Clerk

(Seal)



City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

July 5, 2005

Honorable Jan Drago
President
Seattle City Council
City Hall, 2nd Floor

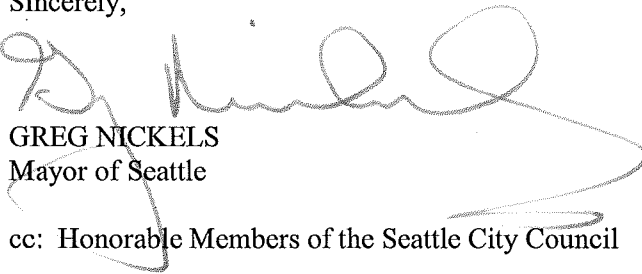
Dear Council President Drago:

I am transmitting the attached proposed Council Bill, which amends various sections of Chapter 6.270 and Chapter 6.202 of the Seattle Municipal Code, providing a code of conduct for adult entertainment businesses in the City of Seattle. Amendments to the City's adult entertainment regulations are necessary to protect the public health, safety, and general welfare of the citizens of Seattle.

Historically the operation of adult entertainment businesses has been accompanied by secondary effects, including prostitution and other criminal behavior. This legislation will help the City of Seattle more effectively regulate adult entertainment premises, ensuring that public safety is protected in areas occupied by adult entertainment businesses. Specifically, this legislation outlines a code of conduct for adult entertainment businesses and requires entertainers and managers to be licensed. The licensing fees will be used to defray the substantial expenses incurred by the City in regulating the adult entertainment industry.

Thank you for your consideration of this legislation. Should you have any questions, please contact Ken Nakatsu at 684-0505 or Mel McDonald at 233-0071.

Sincerely,



GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Executive Administration	Mel McDonald/3-0071	Eve Sternberg/6-1119

Legislation Title:

AN ORDINANCE relating to regulation of adult entertainment; adding new sections to the Seattle Municipal Code; and amending Sections 6.202.280, 6.202.310, 6.270.010, 6.270.030, 6.270.040, 6.270.050, 6.270.060, 6.270.070, 6.270.090, 6.270.100, 6.270.120, and 6.270.150 of the Seattle Municipal Code.

• **Summary of the Legislation:**

This legislation provides standards for allowable time, place and manner for the adult entertainment industry pursuant to recent court precedence. The added provisions provide the City with more objective standards and requirements by which to measure and control adult entertainment businesses. The legislation provides for more specific time periods with regard to license applications, issuances, denials and revocations. It provides additional requirements for license application and license updates, including disclosure of prior convictions and license suspensions or denials by other jurisdictions. Other amendments include premise inspection provisions and restricting customers from entering non-public areas of the adult entertainment premises.

With respect to standards of conduct and operations, this legislation specifically provides that all off-stage adult entertainment will occur at least 4 feet from the nearest member of the public; provides specific stage, railing, lighting and signage requirements; and prohibits gratuities being given directly to any entertainer.

- **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

Historically, the operation of adult entertainment businesses has been accompanied by unwanted secondary effects, including prostitution and other criminal behavior. This legislation will allow the City to more effectively regulate adult entertainment premises, ensuring that public safety is maintained within and without the adult entertainment businesses. Seattle's present adult entertainment code is short on specific standards of conduct. The present code provides for "no touching" when entertainers are dancing off of the stage. Whether or not a dancer is touching a patron of the business is hard to ascertain by enforcement officials, so the four foot rule is being imposed for more efficient enforcement. There is no objective measure for lighting

requirements in our present code. This legislation provides very clear lighting requirements. More objective conduct standards for adult entertainment businesses results in more efficient and fair enforcement. The legislation also changes the appeal path for any suspension or revocation decisions made by the director so that appeals go to the Municipal Court rather than starting with the Hearing Examiner. This procedure will allow for more timely appeals and judgments. (Presently, the appeal goes to the Hearing Examiner and then on to the Superior Court if needed.) The licensing period for adult entertainers is also changed to facilitate easier administration of those licenses.

- *Please check one of the following:*

X **This legislation does not have any financial implications.** *(Stop here and delete the remainder of this document prior to saving and printing.)*

Committee Amendment No 1.

The Committee discussed, and agreed in principle, on two amendments to the CB. The Committee did not have specific language before it. This amendment represents the amendments the Committee agreed to in principle. The Committee therefore recommends adoption of this amendment.

This amendment would require licensees of adult entertainment premises to adopt, post, and enforce a standard of conduct for member of the public while they are on the premises, and would direct the Director to adopt implementing regulations, including mandatory provisions for the code of conduct, the content and manner of posting required, and providing for the required manner of enforcement.

The amendment would amend the CB by adding a new subsection B.8 to SMC 6.20.100.

Page 19, Section 9 of the CB passed out of committee would be amended as provided below:

SMC 6.270.100.B.8 (new)

8. Each adult entertainment premises licensee shall conspicuously display and enforce standards of conduct applicable to members of the public while they are on the premises. The Director shall promulgate implementing regulations, including required content of the standards of conduct, required content and method of the display, and the required manner of enforcement of the standards of conduct by adult entertainment premises licensees.

2

Committee Amendment No. 1, Effective Dates for Specified Provisions.

This amendment would delay the effective date for certain provisions for 180 days or whenever the Mayor submits zoning legislation whichever is later.

Section x. Effective Dates for Specified Provisions.

A. The following provisions of Section 9 of this ordinance shall take effect as provided in this section:

1. Provisions that amend SMC Section 6.270.100 by adding a new subsection A.3.b and a new subsection A.3.c; (four foot rule and no internal walls or dividers, respectively)
2. Provisions that amend SMC Section 6.270.100, Subsection A.10; (tip jar)
3. Provisions that amend SMC Section 6.270.100, Subsection B.2; (30 lux requirement)
4. Provisions that amend SMC Section 6.270.100, Subsection B.3; (no interior walls or dividers)
5. Provisions that amend SMC Section 6.270.100, Subsection B.4; (stage and railing)
6. Provisions that amend SMC Section 6.270.100 by adding a new Subsection B.6.d, and a new Subsection B.6.e. (mandatory sign provisions regarding tip jar and four foot rule, respectively)

B. The provisions identified above shall take effect 150 days after the effective date of this ordinance, or 30 days after the Chair of the City Council Urban Development and Planning Committee certifies to the City Clerk that the Executive has transmitted to the

CM Licata Amendment No 1. Deleting the "four foot rule".

Section 9, Page 15, of the CB as passed out of committee would be amended. Section 9 of the present CB would amend SMC Section 6.270.100 to, among other things, add new language to SMC 6.270.100.A.3 that would prohibit dancers from conducting any dance within four feet of any member of the public.

This amendment would delete from the CB the "four foot rule" language and would instead include a "no touching" rule, as provided below.

SMC Subsection 6.270.100.A.3.b.

3. No employee or entertainer mingling with members of the ((patrons)) public shall:

b. Conduct any dance, performance or exhibition unless such dance, performance or exhibition is performed at a distance of at least four (4) feet from the nearest member of the public; or Physically touch any member of the public while conducting any dance, performance or exhibition;

This amendment would also amend Section 9 of the CB to correspondingly change the language required on the mandatory sign to be displayed on the premises.

Page 19, Section 9 of the CB passed out of committee would be amended as provided below:

SMC 6.270.100.B.6.e.

SMC 6.270.100.B.6. A sign shall be conspicuously displayed in the common areas of the premises, and shall read as follows:...

e. Entertainers mingling with the public may not physically touch any member of the public while conducting conduct any dance, performance or exhibition, unless such dance, performance or exhibition is performed at a distance of at least four (4) feet from the nearest member of the public

CM Licata Amendment No 2. Deleting the 30 lux minimum lighting requirement from the CB.

Section 9, Page 17, of the CB as passed by Committee would be amended. Section 9 of the present CB would amend SMC Section 6.270.100 to, among other things, add new language to SMC 6.270.100.B.2 requiring a minimum lighting level of 30 lux. This amendment would delete from the present CB the language that would add that 30 lux lighting requirement, as provided below.

SMC 6.270.100.B.2.

B.2. Sufficient lighting shall be provided ~~((in))~~ and equally distributed throughout ((about)) the parts of the premises which are open to and used by the public so that all objects are plainly visible at all times. A minimum lighting level of thirty (30) lux horizontal, measured at thirty (30) inches from the floor and on ten (10) foot centers, is hereby established for all parts of the premises which are open to and used by the public.

CM Licata Amendment No. 3. Deleting the Railing Requirement.

Section 9, page 18, of the CB as passed by committee would be amended. Section 9 of the present CB would amend SMC Section 6.270.100 to, among other things, add a railing requirement to SMC 6.270.100.B.4. This amendment would delete from the present CB the language that would add that railing requirement, as provided below.

SMC 6.270.100.B.4.

B.4. A stage, for any performance described in SMC Section 6.270.100 A1.

Such stage shall be at least eighteen (18) inches in elevation above the level of the

patron seating areas and shall be separated by a distance of at least six (6) feet

from all areas of the premises to which the members of the public have access. A

continuous railing, at least three (3) feet in height and located at least six (6) feet

from all points of the stage, shall separate the stage from seating areas for

members of the public.

CM Licata Amendment No. 4. Leaving Appeals to be Heard by the Hearing Examiner.

The CB as passed by Committee would change who would hear appeals. The current SMC language provides that appeals are heard by the Hearing Examiner. The present CB language would transfer those appeals to be heard by the Municipal Court.

If adopted, this amendment would amend the Council Bill as passed by Committee to leave appeals before the hearing examiner. The amendment would delete the CB section that would transfer appeals to the Municipal Court. The amendment would also amend other CB sections so that the present language of SMC Section 602.280.B and Section 602.310 would be unchanged.

The Council Bill would be amended as follows:

1. Delete Section 15, pages 24 and 25. This section of the current CB would create a new SMC Section 6.270.160 providing for an appeal to the Municipal Court). The amendment would delete that new SMC section from the CB.
2. Amend Section 17, page 26. This section of the current CB would delete the present SMC subsection 6.202.280.B (that SMC subsection now provides for the appeals to the Hearing Examiner). This amendment would leave that subsection of the SMC unchanged; and,
3. Delete Section 18, page 27. This section of the current CB would, as part of the transfer of appeals to the Municipal Court, delete the present language in SMC 6.202.310 that provides for stays of decisions by the Hearing Examiner. This amendment would delete that change, leaving the present language in SMC Section 6.02.310 unchanged (leaving the status quo intact regarding stays of decisions by the Hearing Examiner).

ORDINANCE _____

AN ORDINANCE relating to regulation of adult entertainment; adding new sections to the Seattle Municipal Code; and amending Sections 6.202.280, 6.202.310, 6.270.010, 6.270.030, 6.270.040, 6.270.050, 6.270.060, 6.270.070, 6.270.090, 6.270.100, 6.270.120, and 6.270.150 of the Seattle Municipal Code.

WHEREAS, the operation of adult entertainment businesses has historically and regularly been accompanied by secondary effects, including prostitution and other criminal behavior, that are detrimental to the public health, safety, and general welfare of the citizens of Seattle; and

WHEREAS, resources available for responding to problems associated with adult entertainment businesses are limited and will be more efficiently and effectively utilized through improved regulations of adult entertainment premises; and

WHEREAS, amendments to the City's adult entertainment regulations are necessary to protect the public health, safety, and general welfare of the citizens of Seattle; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 6.270.010 of the Seattle Municipal Code is amended as follows:

6.270.010 Findings of fact.

Based on public testimony and other evidence and information before it, the Seattle City Council makes the following findings of fact:

A. Certain conduct occurring on premises offering adult entertainment is detrimental to the public health, safety, and general welfare of the citizens of the City and therefore, such conduct must be regulated as provided herein.

B. Regulation of the adult entertainment industry is necessary because in the absence of such regulation significant criminal activity has historically and regularly occurred.

C. It is necessary to license entertainers in the adult entertainment industry to prevent the exploitation of minors; to ensure that each such entertainer is an adult; and to ensure that such



entertainers have not assumed a false name, which would make regulation of the entertainer difficult or impossible.

D. It is necessary to have a licensed manager on the premises of an establishment during the establishment's hours of operation so that there will at all necessary times be an individual responsible for the overall operation of the establishment, including the actions of ~~((patrons))~~ members of the public, entertainers and other employees.

E. The license fees required herein are nominal fees imposed as necessary regulatory measures designed to help defray the substantial expenses incurred by the City in regulating the adult entertainment industry.

F. Businesses providing adult entertainment are increasingly associated with ongoing prostitution, disruptive conduct and other criminal activity which is currently not subject to effective regulation and which constitutes an immediate threat to the public peace, health and safety.

Section 2. Section 6.270.030 of the Seattle Municipal Code is amended as follows:

6.270.030 Definitions.

For the purposes of this chapter and unless the context plainly requires otherwise, the following definitions are adopted:

A. "Adult entertainment" means any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance involves a person who:

1. Is unclothed or in such attire, costume or clothing as to expose to view any portion of the breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals; or

1 2. Touches, caresses or fondles the breasts, buttocks, anus, genitals or pubic region of another
2 person, or permits the touching, caressing or fondling of his/her own breasts, buttocks, anus,
3 genitals or pubic region by another person, with the intent to sexually arouse or excite another
4 person.

5 B. "Adult entertainment premises" means any premises to which any member of the public((;
6 ~~patrons or members are~~)) is invited or admitted and wherein an entertainer provides adult entertainment
7 to any member of the public((~~a patron, or a member~~)); but does not include that portion of an
8 establishment licensed or required to be licensed as a "panoram" or "peepshow" under the provisions of
9 Seattle Municipal Code Chapter 6.42.

10 C. "Department" means the Department of Executive Administration of The City of Seattle.

11 D. "Director" means the Director of the Department of Executive Administration of The City of
12 Seattle and shall include his or her authorized representatives.

13 E. "Employee" means any and all persons, including managers, entertainers and independent
14 contractors, who work in or at or render any services directly related to, the operation of an adult
15 entertainment premises.

16 F. "Entertainer" means any person who provides adult entertainment within an adult
17 entertainment premises as defined in this section, whether or not a fee is charged or accepted for
18 entertainment.

19 G. "Entertainment" means any exhibition or dance of any type, pantomime, modeling or any
20 other performance.

H. "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 adult entertainment premises.

I. "Member of the public" means any customer, patron, club member, or person, other than an employee as defined in this section, who is invited or admitted to an adult entertainment premises.

~~((F))~~J. "Natural person" means any individual.

~~((F))~~K. "Operator" means any person operating, conducting or maintaining an adult entertainment business.

~~((K))~~L. "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.

~~((L))~~M. "Public place" means any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles whether moving or not.

~~((M. "Reckless" or "recklessly" means a person knows of and disregards a substantial risk that a wrongful act may occur and his or her disregard of such substantial risk is a gross deviation from conduct that a reasonable person would exercise in the same situation.))~~

Section 3. Section 6.270.040 of the Seattle Municipal Code is amended as follows:

6.270.040 Adult entertainment premises license.

A. It is unlawful for any person to operate or maintain an adult entertainment premises in The City of Seattle unless the owner, operator or lessee thereof has obtained from the Director ~~((of Executive Administration))~~ a license to do so, to be designated an "adult entertainment premises license."



1 B. It is unlawful for any person to knowingly allow the use of his or her property for the
2 operation of an adult entertainment premises that is not licensed under this chapter.

3 C. It is unlawful for any entertainer, employee or manager to knowingly work in or about, or to
4 knowingly perform any service or entertainment directly related to the operation of, an unlicensed adult
5 entertainment premises.

6 **Section 4.** Section 6.270.050 of the Seattle Municipal Code is amended as follows:

7 **6.270.050 License for managers and entertainers.**

8 ((Commencing December 5, 1988, it shall be)) A. It is unlawful for any person to work as an
9 entertainer ((or manager)) at an adult entertainment premises without having first obtained from the
10 Director ((of Executive Administration)) a license to do so, to be designated as an "adult entertainer's
11 license((s))"((or an "adult entertainment manager's license," respectively)).

12 B. It is unlawful for any person to work as a manager at an adult entertainment premises without
13 having first obtained from the Director a license to do so, to be designated as an "adult entertainment
14 manager's license."

15 **Section 5.** Section 6.270.060 of the Seattle Municipal Code is amended as follows:

16 **6.270.060 License fees.**

17 The license year for adult entertainment premises licenses and adult entertainment manager's
18 licenses ((all fees)) required under this chapter shall be from January 1st to December 31st. The license
19 year for adult entertainer's licenses required under this chapter shall be from August 1st to July 31st.

20 All license fees shall be payable on an annual basis, which fees shall be as follows:

21 A. Adult entertainment premises license, Seven Hundred Twenty Dollars (\$720.00) per year;

22 B. Adult entertainer's license, One Hundred Forty-five Dollars (\$145.00) per year;

C. Adult entertainment manager's license, One Hundred Forty-five Dollars (\$145.00) per year.

Any adult entertainer's license issued pursuant to this chapter which is in effect prior to August 1, 2005 shall, unless suspended or revoked, continue to be in effect until December 31, 2005 and may, unless suspended or revoked, be renewed for the period January 1, 2006 to July 31, 2006, subject to the provisions of this chapter and payment of a proportional license fee for such period in the amount of Eighty-four Dollars and Fifty Cents (\$84.50).

Section 6. A new section is added to the Seattle Municipal Code as follows:

6.270.065 License prohibited to certain classes.

No license authorized under this chapter shall be issued to:

A. A natural person who has not attained the age of eighteen (18) years.

B. A partnership, unless all of the members thereof are individually qualified to obtain a license as provided by this chapter. Such license shall be issued to the manager of the partnership.

C. A corporation, unless all of the officers and directors thereof are individually qualified to obtain a license as provided by this chapter.

Section 7. Section 6.270.070 of the Seattle Municipal Code is amended as follows:

6.270.070 License applications.

A. Adult Entertainment Premises License. All applications for an adult entertainment premises license shall be submitted in the name of the person proposing to conduct such adult entertainment on the premises and shall be signed by such person and notarized or certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the Director ((of Executive Administration)), and shall require the following information:

1. The name, residence address, home telephone number, date and place of birth, and social security number of the applicant;
2. The business name, address and telephone number of the establishment;
3. The names, residence addresses, residence telephone numbers, social security numbers and dates of births of any partners, corporate officers and directors;
4. Such information as the Director, by rule, may require concerning the identity of corporate shareholders;
5. Addresses of the applicant for the five (5) years immediately prior to the date of application;
6. A description of the adult entertainment or similar business history of the applicant; whether such person or entity, in previously operating in this or another city, county or state, has had a business license revoked or suspended, the reason therefor, and the activity or occupation subjected to such action, suspension or revocation;
7. A description of the business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application;
8. ~~((Such license shall include t))~~The name of at least one (1) natural person whose name and mailing address, which shall be an address located within the State of Washington, shall appear on the adult entertainment premises license and who shall receive notices from the Department.
9. Whether the applicant has had a license under this chapter or an adult entertainment-related license issued by another jurisdiction, denied, suspended or revoked within the three (3) years immediately preceding the date of the application: and, if so, the name and location of the adult entertainment business to which the denied, suspended or revoked license pertained, the date of

1 the action, the jurisdiction that took such action, the reason for the action, and the status of any
2 appeal of the action.

3 10. Whether the applicant has been the subject of a bail forfeiture, adverse finding or conviction
4 with local, state, or federal criminal law, other than a parking offense or traffic infraction, within
5 the five (5) years preceding the date of the application; and, if so, the nature of the crime and the
6 date, location and nature of the judicial action taken.

7 11. A failure to provide information required by this subsection will constitute an incomplete
8 application and will not be processed.

9 B. Manager's or Entertainer's License. All applications for an adult entertainment manager's
10 license or adult entertainer's license shall be signed by the applicant and notarized or certified as true
11 under penalty of perjury. All applications shall be submitted on a form supplied by the Director, and
12 shall require the following information:

- 13 1. The applicant's name, home address, home telephone number, date and place of birth, social
14 security number, and any stage names or nicknames used in entertaining;
- 15 2. The name and address of each business at which the applicant intends to work as a manager
16 or entertainer;
- 17 3. The applicant shall present documentation that he or she has attained the age of eighteen (18)
18 years. Any of the following shall be accepted as documentation of age:
 - 19 a. A motor vehicle operator's license issued by any state bearing the applicant's
20 photograph and date of birth,
 - 21 b. A state-issued identification card bearing the applicant's photograph and date of birth,
 - 22 c. An official passport issued by the United States of America,

d. An immigration card issued by the United States of America,

e. Any other picture identification bearing the applicant's photograph and date of birth issued by a governmental agency, or

f. Such other form of identification as the Director deems, by rule, to be acceptable;

4. Whether the applicant has had a license under this chapter or an adult entertainment-related license issued by another jurisdiction denied, suspended or revoked within the three (3) years immediately preceding the application; and, if so, the name and location of the adult entertainment business to which the denied, suspended or revoked license pertained, the jurisdiction that took such action, the reason for the action, the date of the action and the status of any appeal of the action;

5. Whether the applicant has been the subject of a bail forfeiture, adverse finding or conviction in connection with local, state or federal criminal law, other than a parking offense or traffic infraction, within the five (5) years immediately preceding the date of the application; and if so, the nature of the crime and the date, location, and nature of the judicial action taken; and

6. Failure to provide information required by this subsection will constitute an incomplete application and will not be processed.

C. Duty to Supplement. Each license applicant for, or holder of, a license issued under this chapter shall modify, or supplement application information, on file with the Director, within ten (10) days of a change if the information changes materially from what is stated on the applicant or holder's license application.

Section 8. Section 6.270.090 of the Seattle Municipal Code is amended as follows:

6.270.090 Issuance of licenses.

A. Adult Entertainment Premises License. Within thirty (30) days of receipt by the Director of a complete application for an adult entertainment premises license, including all submittals and information required by this chapter, the Director shall issue or deny the adult entertainment premises license. If the Director fails to issue or deny the license within the thirty-day (30) period, the license is deemed issued on the last day of the thirty-day (30) period and the applicant may operate the adult entertainment premises for which the license was sought, subject to all other provisions of this chapter.

B. ~~((After an investigation, t))~~ The Director shall deny ~~((issue))~~ the ~~((applicable))~~ adult entertainment premises license ~~((or licenses authorized by this chapter))~~ for any of the following reasons, and shall notify the applicant in writing of the reasons for the denial and the opportunity to appeal, if the Director finds:

1. ~~((That t))~~ The business for which a license is required herein will not be conducted in a building, structure and location which complies with the requirements and meets the standards of the applicable health, zoning, building, fire and safety laws of the State~~((s))~~ and the ordinances of the City, including ~~((as well as))~~ the requirements of this chapter;

2. ~~((That t))~~ The applicant, his or her employee, agent, partner, director, officer, ~~((stockholder))~~ or manager has ~~((not))~~ knowingly made any false, misleading or fraudulent omission or statement of material fact in the application for a license, or in any report or record required to be filed with the Director;



3. ~~((That-t))~~The applicant, and all employees, agents, partners, directors, officers, or managers of the applicant have not attained the age of eighteen (18) years or issuance of a license is prohibited by SMC Section 6.270.065((-));

4. The applicant or his or her partner, director, or officer is currently the subject of a final adult entertainment premises license suspension order or is the subject of an adult entertainment premises license revocation order issued pursuant to this chapter which became final less than one (1) year prior to the pending application.

C. Adult Entertainment Manager's and Adult Entertainer's Licenses.

The Director shall issue or deny an adult entertainment manager's license or an adult entertainer's license on the same business day in which a complete application, including all submittals and information required by this chapter, is received.

D. The Director shall deny an application for an adult entertainment manager's license or an adult entertainer's license for any of the following reasons, and shall notify the applicant in writing of the grounds for the denial and the opportunity to appeal, if the Director finds:

1. The applicant is less than eighteen (18) years old;
2. The applicant has failed to provide any of the submittals or information required to be supplied according to this chapter;
3. The applicant has knowingly made any false, misleading or fraudulent statement or omission of material fact in the application for a license; or
4. The applicant is currently the subject of a final license suspension order issued pursuant to this chapter or is the subject of a license revocation order issued pursuant to this chapter which became final less than one (1) year before the pending application.



1 E. If the Director denies an adult entertainment manager's license or an adult entertainer's
2 license authorized by this chapter, and if the applicant files a timely notice of appeal pursuant to SMC
3 Section 6.270.160, the Director shall, upon receipt of a copy of such notice of appeal, immediately issue
4 the applicant a temporary license which shall authorize the applicant to perform as a manager or
5 entertainer in the same manner and subject to the same requirements as if the license had been granted,
6 pending the final outcome of the appeal. A license applicant must pay the fee for an adult entertainment
7 manager's license or an adult entertainer's license as set forth in SMC Section 5.270.060 at the time the
8 temporary license is issued. The holder of a temporary license is subject to all requirements, standards
9 and penalty provisions of this chapter.

10 **Section 9.** Section 6.270.100 of the Seattle Municipal Code is amended as follows:

11 **6.270.100 Standards of conduct and operation.**

12 A. The following standards of conduct must be adhered to by employees of any adult
13 entertainment premises:

14 1. No employee or entertainer shall be unclothed, clothed in less than opaque attire, or shall
15 move or remove such attire, or allow such attire to be moved or removed so as to expose to view
16 any portion of the breast below the top of the areola or any portion of the pubic region, anus,
17 buttocks, vulva or genitals, except upon a stage as defined in SMC Section 6.270.100 B4 ((at
18 least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from
19 the nearest patron)).

20 2. No employee or entertainer shall perform acts of or acts which simulate:

- 21 a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or
22 any sexual acts which are prohibited by law;

b. The touching, caressing or fondling of the breasts, buttocks or genitals; or

c. The displaying of the pubic region, anus, vulva or genitals; except as provided for in subdivision 1 of this subsection.

3. No employee or entertainer mingling with members of the ~~((patrons))~~ public shall:

a. ~~((b))~~Be unclothed or in less than opaque and complete attire, costume or clothing as described in subdivision 1 of this subsection;~~((c))~~

b. Conduct any dance, performance or exhibition unless such dance, performance or exhibition is performed at a distance of at least four (4) feet from the nearest member of the public; or

c. Conduct any dance, performance or exhibition in any area described in SMC Section 6.270.100 B3.

4. No employee or entertainer shall knowingly:

a. Touch, caress or fondle the breast, buttocks, anus, genitals or pubic region of another person; or

b. Permit the touching, caressing or fondling of his or her own breasts, buttocks, anus, genitals or pubic region by another person; or

c. Permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus, genitals or pubic region of another person.

5. No manager or operator shall knowingly permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus, genitals or pubic region of another person.

6. No employee or entertainer shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva or genitals, anus, buttocks, or any portion of the pubic region.

7. No employee or entertainer shall use artificial devices or inanimate objects to depict any of the prohibited activities described in this subsection.

8. No entertainer of any adult entertainment premises shall be visible from any public place during the hours of his or her employment, or apparent hours of his or her employment, on the premises.

9. No entertainer shall solicit, demand or receive any payment or gratuity from any ~~((patron))~~ member of the public for any act prohibited by this chapter.

10. No entertainer shall demand or collect any payment or gratuity from any ~~((patron))~~ member of the public for entertainment before its completion. No entertainer shall accept any form of gratuity offered directly to the entertainer by any member of the public. Any gratuity offered to any entertainer must be placed into a receptacle for receipt of gratuities provided by the adult entertainment establishment or offered through a manager on duty on the premises.

11. ~~((A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows: THIS ADULT ENTERTAINMENT ESTABLISHMENT IS REGULATED BY THE CITY OF SEATTLE. ENTERTAINERS ARE:~~

a. ~~Not permitted to engage in any type of sexual conduct;~~

b. ~~No employee or entertainer shall be unclothed, clothed in less than opaque attire, or shall move or remove such attire, or allow such attire to be moved or removed so as to expose to view any portion of the breast below the top of the areola or any portion of the~~

pubic region, anus, buttocks, vulva or genitals, except upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest patron.

e. ~~Not permitted to demand or collect any payment or gratuity from any patron for entertainment before its completion.))~~

((12.)) No manager or operator shall knowingly ((or recklessly)) permit or allow any employee or entertainer to violate any provision of this chapter.

B. At any adult entertainment premises, the following are required:

1. Neither the performance nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any portion of the breasts below the top of the areola or any portion of the pubic hair, buttocks, genitals and/or anus may be visible outside of the adult entertainment premises.

2. Sufficient lighting shall be provided ((in)) and equally distributed throughout ((about)) the parts of the premises which are open to and used by the public so that all objects are plainly visible at all times. A minimum lighting level of thirty (30) lux horizontal, measured at thirty (30) inches from the floor and on ten (10)-foot centers is hereby established for all parts of the premises, which are open to and used by the public.

3. No entertainment shall be provided in any area((s)) from which any other person may be prevented from entering, whether by a locking door or in any other manner and no entertainment shall be provided in any area which is enclosed or partially enclosed by interior walls, dividers, barricades, curtains or other means or in any area in which the dance, performance or exhibition is not clearly visible from all public areas inside the adult entertainment premises.

1 4. A stage, for any performance described in SMC Section 6.270.100 A1. Such stage shall be at
2 least eighteen (18) inches in elevation above the level of the patron seating areas and shall be
3 separated by a distance of at least six (6) feet from all areas of the premises to which the
4 members of the public have access. A continuous railing, at least three (3) feet in height and
5 located at least six (6) feet from all points of the stage, shall separate the stage from seating areas
6 for members of the public.

7 5. The stage must be visible immediately upon entering the premise's seating area, and, at all
8 times, be visible to a manager. Visibility shall not be blocked or obstructed by a door, curtain,
9 drape or any other obstruction.

10 6. A sign shall be conspicuously displayed in the common area of the premises, and shall read as
11 follows:

12 THIS ADULT ENTERTAINMENT ESTABLISHMENT IS REGULATED BY THE CITY OF
13 SEATTLE.

14 a. Entertainers are not permitted to engage in any type of sexual conduct;

15 b. No employee or entertainer shall be unclothed, clothed in less than opaque attire, or
16 shall move or remove such attire, or allow such attire to be moved or removed so as to
17 expose to view any portion of the breast below the top of the areola or any portion of the
18 pubic region, anus, buttocks, vulva or genitals, except upon a stage at least eighteen (18)
19 inches above the immediate floor level and removed at least six (6) feet from the nearest
20 member of the public.

21 c. Entertainers are not permitted to demand or collect any payment or gratuity from any
22 member of the public for entertainment before its completion.

d. Entertainers are not permitted to accept any form of gratuity directly from a member of the public. Any gratuity offered to any entertainer must be placed into a receptacle for receipt of gratuities provided by the adult entertainment establishment or offered through a manager on duty on the premises.

e. Entertainers mingling with the public may not conduct any dance, performance or exhibition unless such dance, performance or exhibition is performed at a distance of at least four (4) feet from the nearest member of the public.

C. This chapter shall not be construed to prohibit protected expression, such as:

1. Plays, operas, musicals, or other dramatic works that are not obscene;
2. Classes, seminars and lectures held for serious scientific or educational purposes that are not obscene; or
3. Exhibitions, performances, expressions or dances that are not obscene.

D. For purposes of this chapter, an activity is "obscene" if:

1. Taken as a whole by an average person applying contemporary community standards the activity appeals to a prurient interest in sex;
2. The activity depicts patently offensive representations, as measured against community standards, of:
 - a. Ultimate sexual acts, normal or perverted, actual or simulated, or
 - b. Masturbation, fellatio, cunnilingus, bestiality, excretory functions, or lewd exhibition of the genitals or genital area; or violent or destructive sexual acts, including but not limited to human or animal mutilation, dismemberment, rape or torture; and
3. The activity taken as a whole lacks serious literary, artistic, political, or scientific value.

1 E. No manager, owner, entertainer or employee shall operate or maintain any warning
2 procedures or device, of any nature or kind, for the purpose of warning any other person that police
3 officers or City health, fire, licensing or building inspectors are approaching or have entered the adult
4 entertainment premises.

5 ~~((F. It is unlawful for any person to violate any of the provisions of this Section 6.270.100.))~~

6 **Section 10.** A new section is added to the Seattle Municipal Code as follows:

7 **6.270.115 Unlawful Acts**

8 It is unlawful for any person to violate any of the provisions of this chapter.

9 **Section 11.** Section 6.270.120 of the Seattle Municipal Code is amended as follows:

10 **6.270.120 Manager on premises.**

11 A. A licensed manager shall be on duty at an adult entertainment premises during the adult
12 entertainment premises' hours of operation. The name of the manager on duty shall be prominently
13 posted during business hours.

14 B. Any adult entertainment premises found to be operating without a manager on duty shall be
15 immediately closed until a licensed manager arrives for duty at the adult entertainment premises
16 pursuant to Section 6.270.120 A.

17 C. The manager shall verify that each entertainer performing while the manager is on duty
18 possesses a current and valid entertainer's license, as required by this chapter. The manager shall verify
19 that such adult entertainment license is posted in the manner required by Section 6.270.110.

20 D. A manager shall not perform as an entertainer on days during which he or she acts as
21 manager on duty at an adult entertainment establishment.

1 **Section 12.** A new section is added to Chapter 6.270 of the Seattle Municipal Code as follows:

2 **6.270.125 Permission to Inspect.**

3 An adult entertainment premises licensee and its manager shall permit the Director and personnel
4 from the Seattle Police Department to conduct announced inspections, during hours that the adult
5 entertainment premises is open to the public, of all exterior and interior areas of the premises open to
6 and used by members of the public and of all books and records required to be kept under this chapter.
7 The purpose of such inspections is to determine whether the premises are being operated in compliance
8 with the provisions of this chapter.

9 **Section 13.** A new section is added to Chapter 6.270 of the Seattle Municipal Code as follows:

10 **SMC 6.270.135 Nonpublic Areas.**

11 No member of the public shall be permitted to enter into any of the nonpublic portions of the
12 adult entertainment establishment, which shall include but are not limited to: the dressing rooms of
13 entertainers or other rooms provided for the benefit of employees, and the kitchen and storage areas;
14 except that persons delivering goods and materials, food and beverages, or performing maintenance or
15 repairs to the premises or equipment on the premises may be permitted into nonpublic areas to the extent
16 required to perform their job duties.

17 **Section 14.** Section 6.270.150 of the Seattle Municipal Code is amended as follows:

18 **6.270.150 Suspension or revocation of ((premises)) license.**

19 ~~((In addition to the reasons set forth in SMC Section 6.202.230 as now or hereafter amended, an~~
20 ~~adult entertainment premises license may be suspended or revoked upon a finding that:~~

21 ~~A. The premises licensee permitted or authorized his or her employees, agents, entertainers or~~
22 ~~managers to violate any of the provisions of this chapter; or~~

~~B. The adult entertainment manager permitted or authorized any violation of any of the provisions of this chapter by any person.))~~

A. The Director may suspend or revoke a license issued under this chapter in accordance with the following:

1. If a licensee obtained or renewed a license through a false, misleading or fraudulent omission or statement of material fact either on the application for the license or the license renewal, the license shall be revoked;

2. If a licensee violates any other provision of this chapter, the license shall be:

a. Suspended for thirty (30) days for a first violation.

b. Suspended for ninety (90) days for a second violation within any twenty-four (24) month period.

c. Revoked for a third violation within any twenty-four (24) month period.

3. Time spent serving a suspension is not counted in determining the twenty-four (24) month period referred to in subsection A2 of this section.

4. For an adult entertainment premises licensee, a violation for which an adult entertainment premises license may be suspended or revoked includes a violation of this chapter by a manager, employee, agent, entertainer or any other person, occurring on the premises when the adult entertainment premises licensee knew of or should have known of the violation.

5. For an adult entertainment manager licensee, a violation for which an adult entertainment manager's license may be suspended or revoked includes a violation of this chapter by an adult entertainer or other person when the adult entertainment manager knew of or should have known of the violation.

1 6. If a licensee is convicted of committing a crime or offense involving one of the following
2 occurring on the premises of an adult entertainment establishment, the license shall be revoked:

3 a. A violation of RCW 9A.88.030, 9A.88.070, 9A.88.080 or 9A.88.090;

4 b. A violation of SMC Sections 12A.10.020 or 12A.10.060;

5 c. A transaction involving a controlled substance as defined in chapter 69.50 RCW; or

6 d. A violation of chapter 9A.44 RCW, Sex Offenses or chapter 9.68A RCW, Sexual
7 Exploitation of Children.

8 B. For an adult entertainment premises licensee, a conviction for which the adult entertainment
9 premises license may be revoked includes the conviction of a manager, employee, agent or entertainer
10 for a crime or offense listed in subsection A6 of this section occurring on the premises of the adult
11 entertainment establishment when the adult entertainment premises licensee knew of or should have
12 known of the crime or offense.

13 C. For an adult entertainment manager licensee, a conviction for which the adult entertainment
14 manager's license may be revoked includes the conviction of an employee or entertainer for a crime or
15 offense listed in subsection A6 of this section occurring on the premises of the adult entertainment
16 establishment when the adult entertainment manager licensee knew of or should have known of the
17 crime or offense.

18 D. A licensee whose license has been revoked is not eligible to reapply for any license
19 authorized by this chapter for one year following the date the decision to revoke is final.

20 E. On receipt of a notice of suspension or revocation, the license holder shall promptly deliver
21 the license to the Director unless an appeal is pending under this chapter. Upon expiration of a license
22 suspension, the Director shall return the license to the license holder.

1 F. For purposes of this section, a person “should have known” of a crime or offense or violation
2 of this chapter, when the person has information which would lead a reasonable person to believe that a
3 crime or offense or violation of this chapter is occurring or will occur.

4 G. If the Director determines that a condition exists on an adult entertainment premises which
5 constitutes a threat of immediate serious injury or damage to a person or property, the Director may
6 immediately suspend an adult entertainment premises license. The Director shall issue a notice setting
7 forth the basis for the action and the facts that constitute a threat of immediate serious injury or damage
8 to a person or property.

9 **Section 15.** A new section is added to Chapter 6.270 of the Seattle Municipal Code as follows:

10 **6.270.160 Appeal of denial, suspension or revocation.**

11 A. If the Director has ordered a license authorized by this chapter be denied, suspended or
12 revoked, the applicant or licensee may appeal such order only by filing a notice of appeal to the Seattle
13 Municipal Court and serving the Director with a copy of the notice of appeal within ten (10) days after
14 personal service of or mailing of the order. The notice of appeal must specify the particular reason(s)
15 upon which the appeal is based.

16 B. The matter shall be granted priority in Seattle Municipal Court and the decision of the
17 Municipal Court shall be final subject only to judicial review.

18 C. Except for cases involving a denial of an adult entertainment premises license or a license
19 suspended pursuant to SMC Section 6.270.150 G, orders of the Director suspending, revoking or
20 denying a license shall be stayed pending judicial review in Municipal Court.

21 D. In cases involving a denial of an adult entertainment premises license, if the Municipal Court
22 has not issued a final determination within sixty (60) days after filing of the notice of appeal or such

1 longer time as may have been agreed to by the person challenging the Director's order; the Director shall
2 issue a temporary license which shall be valid only until the court renders its determination affirming the
3 license denial or requiring the issuance of the license. A delay caused by or requested by the person
4 challenging the Director's order, including a motion for a continuance of a hearing, shall not be counted
5 in determining the sixty (60) day period referred to in this section.

6 E. If a stay of a suspension or revocation is still in effect at the end of a license year then, in
7 order to continue to use the license during the stay after the end of the license year, the licensee must
8 pay the annual license fee set forth in SMC Section 6.270.060 to obtain a renewal of the license. A
9 license suspension that extends beyond the end of the license year shall remain in effect, and any
10 renewal license issued shall not be effective until the completion of the term of the license suspension.

11 **Section 16.** A new section is added to Chapter 6.270 if the Seattle Municipal Code as follows:

12 **6.270.170 Public Nuisance.**

13 An adult entertainment premises operated, conducted or maintained in violation of this chapter or
14 any law of the City of Seattle or the State of Washington shall be, and the same is, declared to be
15 unlawful and a public nuisance. The City Attorney may, in addition to, or in lieu of, any other remedies
16 set forth in this chapter, commence an action to enjoin, remove or abate such nuisance and may take
17 such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will
18 abate or remove such public nuisance, and restrain and enjoin any person from operating, conducting or
19 maintaining an adult entertainment premises contrary to the provisions of this chapter.

1 **Section 17.** Section 6.202.280 of the Seattle Municipal Code is amended as follows:

2 **6.202.280 Continuation of business while complaint hearing decision pending**

3 ~~((A.))~~ Except in the case of summary suspension or revocation, whenever a timely request for
4 hearing on a complaint is filed, a licensee or an applicant for license renewal may engage in the activity
5 for which the license is required, pending decision by the Hearing Examiner. An applicant not licensed
6 in the preceding license year may not engage in the activity for which the license is required pending
7 decision by the Hearing Examiner.

8 ~~((B. If the Department denies an adult entertainment license governed by SMC Chapter 6.270,~~
9 ~~and if the license applicant files a notice of appeal with the Hearing Examiner, the Director shall~~
10 ~~immediately issue the license applicant a temporary license. The temporary license shall authorize the~~
11 ~~license applicant to operate an adult entertainment establishment or perform as a manager or entertainer,~~
12 ~~in the same manner as if the license had been granted, pending the Hearing Examiner's decision.~~

13 1. ~~If the Hearing Examiner affirms the Director's license denial, the temporary license~~
14 ~~shall remain in effect pending a motion for reconsideration before the Hearing Examiner~~
15 ~~and, in addition (a) if the license applicant does not timely file for judicial review, then~~
16 ~~only until the expiration of the time allowed to file an application for a writ of review~~
17 ~~under Chapter 7.16 RCW; or (b) if the license applicant does timely file an application~~
18 ~~for a writ of review, then only until the court either issues a writ or denies the writ~~
19 ~~application.~~

20 2. ~~If the Hearing Examiner dismisses the adult entertainment license denial with~~
21 ~~prejudice, the Department shall immediately issue an adult entertainment license.~~

3. ~~If the Hearing Examiner dismisses the adult entertainment denial without prejudice, the temporary license shall remain in effect for five (5) additional business days, at the end of which time the Department must either reissue a denial or issue an adult entertainment license. If the Director reissues the denial, then the temporary license will continue in effect according to the procedures set forth in subsection B of this section.~~

4. ~~Notwithstanding SMC Section 6.202.210, if a license applicant is issued a temporary license, the license applicant shall pay the fee charged for an adult entertainment license under SMC Section 6.270.060 at the time the applicant receives the temporary license. If the temporary license issued under this subsection is still in effect at the end of a calendar year, then the license applicant must pay the fee charged for an adult entertainment license under SMC Section 6.270.060 for the next calendar year.))~~

Section 18. Section 6.202.310 of the Seattle Municipal Code is amended as follows:

6.202.310 Hearing Examiner -- Decision final -- Mandatory stay pending review.

The decision of the Hearing Examiner shall be final when the decision has been mailed to the last known address of each party. The Director may stay enforcement of a decision of the Hearing Examiner pending motion for reconsideration or pending judicial consideration of a stay, where the Director determines that no clear, substantial, and imminent hazard to the health, safety, welfare, privacy or property of any person would result. ~~((In the case of adult entertainment licenses governed by SMC Chapter 6.270, the Director shall stay enforcement of a decision of the Hearing Examiner affirming suspension or revocation of a license pending a motion for reconsideration before the Hearing Examiner and shall stay enforcement of such decision (A) if no application for judicial review is timely filed, then only until the expiration of time allowed to file such application under RCW Chapter 7.16; or (B) if an~~



1 application for judicial review is timely filed, then only until a writ is issued or the application for writ
2 has been denied.))

3 **Section 19.** This ordinance shall take effect and be in force thirty (30) days from and after its
4 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after
5 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

6 Passed by the City Council the ____ day of ____, 2005, and signed by me in open session
7 in authentication of its passage this ____ day of ____, 2005.

8
9
10 _____
President _____ of the City Council

11 Approved by me this ____ day of ____, 2005.

12
13
14 _____
Gregory J. Nickels, Mayor

15 Filed by me this ____ day of ____, 2005.

16
17
18 _____
City Clerk

19 (Seal)
20
21
22
23
24



ORDINANCE _____

AN ORDINANCE relating to regulation of adult entertainment; adding new sections to the Seattle Municipal Code; and amending Sections 6.202.280, 6.202.310, 6.270.010, 6.270.030, 6.270.040, 6.270.050, 6.270.060, 6.270.070, 6.270.090, 6.270.100, 6.270.120, and 6.270.150 of the Seattle Municipal Code.

WHEREAS, the operation of adult entertainment businesses has historically and regularly been accompanied by secondary effects, including prostitution and other criminal behavior, that are detrimental to the public health, safety, and general welfare of the citizens of Seattle; and

WHEREAS, resources available for responding to problems associated with adult entertainment businesses are limited and will be more efficiently and effectively utilized through improved regulations of adult entertainment premises; and

WHEREAS, amendments to the City's adult entertainment regulations are necessary to protect the public health, safety, and general welfare of the citizens of Seattle; and

WHEREAS, nothing in these amendments is intended to authorize activities that do not comply with other requirements of the Seattle Municipal Code, including Title 23, the Land Use Code, or other applicable law; and

WHEREAS, a Clerk's File, Number 307550, has been opened as a depository for the documents, statements and other written materials received by the Council related to this ordinance; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 6.270.010 of the Seattle Municipal Code is amended as follows:

6.270.010 Findings of fact.

Based on public testimony and other evidence and information before it, the Seattle City Council makes the following findings of fact:

A. Certain conduct occurring on premises offering adult entertainment is detrimental to the public health, safety, and general welfare of the citizens of the City and therefore, such conduct must be regulated as provided herein.



1 B. Regulation of the adult entertainment industry is necessary because in the absence of such
2 regulation significant criminal activity has historically and regularly occurred.

3 C. It is necessary to license entertainers in the adult entertainment industry to prevent the
4 exploitation of minors; to ensure that each such entertainer is an adult; and to ensure that such
5 entertainers have not assumed a false name, which would make regulation of the entertainer difficult or
6 impossible.

7 D. It is necessary to have a licensed manager on the premises of an establishment during the
8 establishment's hours of operation so that there will at all necessary times be an individual responsible
9 for the overall operation of the establishment, including the actions of ~~((patrons))~~ members of the public,
10 entertainers and other employees.

11 E. The license fees required herein are nominal fees imposed as necessary regulatory measures
12 designed to help defray the substantial expenses incurred by the City in regulating the adult
13 entertainment industry.

14 F. Businesses providing adult entertainment are increasingly associated with ongoing
15 prostitution, disruptive conduct and other criminal activity which is currently not subject to effective
16 regulation and which constitutes an immediate threat to the public peace, health and safety.

17 G. The City Council makes the following additional findings of fact based upon public
18 testimony and other evidence, information, documents and other materials received by the City Council
19 and included in the legislative record of Council Bill 115326. The City Council also makes such
20 findings having taken legislative notice of the evidence of conduct occurring in and around adult
21 entertainment businesses located in other jurisdictions, which the council hereby deems to be relevant to
22 the experience in Seattle, as reported in judicial opinions including but not limited to *Ino Ino, Inc. v. City*
23 *of Bellevue*, 132 Wn.2d 103 (1997); *DCR, Inc. v. Pierce County*, 92 Wn. App. 660 (1998); *Key, Inc. v.*
24



1 Kitsap County, 793 F.2d 1053 (9th Cir. 1986), and Colacurcio v. City of Kent, 163 F.3d 545 (9th Cir.
2 1998) and as reported in previous studies of the City of Seattle and the findings of other city and county
3 legislative bodies that have also adopted ordinances regulating adult entertainment businesses,
4 including, but not limited to, the counties of King and Snohomish and the cities of Bellevue, Burien, Des
5 Moines, Everett, Federal Way, Kent, Lake Forest Park, Lynnwood, Renton, Shoreline and Tukwila.

6 1. The operation of adult entertainment businesses has historically and regularly been
7 accompanied by secondary effects which are detrimental to the public health, safety, morals and general
8 welfare of the citizens of Seattle. Such secondary effects include significant criminal conduct, and
9 activities injurious to the public health, safety, morals and general welfare of the community,
10 detrimental effects on nearby businesses and residential areas and a decline in property values in the area
11 around adult entertainment businesses. This history of criminal and injurious activity includes
12 prostitution, narcotics and liquor law violations, breaches of the peace, assaults, sexual conduct between
13 customers and entertainers, and the opportunity for the spread of sexually-transmitted diseases.

14 2. Proximity between entertainers and customers in adult clubs facilitates sexual conduct,
15 prostitution, transactions involving controlled substances and other crimes. To deter such conduct and
16 assist law enforcement in detecting it, Seattle has required that an adult entertainer exposing nudity must
17 be separated from customers by performing on a stage at least eighteen inches above the floor and at
18 least six feet from the nearest patron. Additionally, Seattle has historically prohibited entertainers
19 performing "lap" or "table" dances from engaging in sexual contact with customers. There is substantial
20 evidence that such prohibitions are ineffective. Lap and table dances typically involve exposure of
21 nudity or sexual conduct between entertainers and customers, or both, and may also include acts of
22 prostitution, transactions involving controlled substances and other crimes. To effectively deter such
23 conduct and assist law enforcement in detecting it, it is necessary that dances and performances by adult
24

1 entertainers mingling with the public be at least four feet from the nearest member of the public. Such a
2 requirement is in effect in the City of Bellevue and in other Washington cities and has been upheld by
3 the Washington Supreme Court as a constitutional regulation that furthers the governmental interest in
4 preventing sexual conduct and other criminal conduct while still allowing an entertainer to convey an
5 erotic expression (see *Ino Ino, Inc. v. City of Bellevue*, 132 Wn.2d 103 (1997)).

6 3. To prevent sexual conduct from occurring between entertainers and customers, customers
7 must be prohibited from passing tips, gratuities or other payments directly to entertainers. Such a
8 prohibition is in effect in King County, the City of Kent and the City of Bellevue and has been upheld as
9 a constitutional regulation that furthers the governmental interest in preventing sexual contact and other
10 criminal conduct while still allowing an entertainer to perform (see *Ino Ino, Inc. v. City of Bellevue*, 132
11 Wn.2d 103, 937 P.2d 154 (1997) and *DCR, Inc v. Pierce County*, 92 Wn. App 660. (1998)).

12 4. Adult entertainment businesses have historically attempted to prevent law enforcement and
13 licensing officials from detecting sexual conduct, prostitution, sale and distribution of controlled
14 substances and other violations of law occurring on the premises by employing warning systems,
15 maintaining low light levels and other techniques. Some adult entertainment businesses have erected
16 barriers or installed seating or lounge areas which provide visual barriers that screen activities between
17 entertainers and members of the public. For effective enforcement of this ordinance and protection of
18 the public health, safety, and general welfare, it is necessary to require that adult entertainment
19 businesses maintain minimum light levels and contain no barriers which would hinder law enforcement
20 from monitoring the activities between adult entertainers and members of the public.

21 5. Resources available for responding to problems associated with adult entertainment
22 businesses are limited and will be more efficiently and effectively utilized through regulations which
23 will deter sexual contact between adult entertainers and members of the public, including regulations
24

1 requiring minimum distance requirements between dancers and members of the public, the absence of
2 visual barriers, minimum lighting requirements and tipping restrictions.

3 **Section 2.** Section 6.270.030 of the Seattle Municipal Code is amended as follows:

4 **6.270.030 Definitions.**

5 For the purposes of this chapter and unless the context plainly requires otherwise, the following
6 definitions are adopted:

7 A. "Adult entertainment" means any exhibition, performance or dance of any type conducted in
8 a premises where such exhibition, performance or dance involves a person who:

9 1. Is unclothed or in such attire, costume or clothing as to expose to view any portion of the
10 breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or
11 genitals; or

12 2. Touches, caresses or fondles the breasts, buttocks, anus, genitals or pubic region of another
13 person, or permits the touching, caressing or fondling of his/her own breasts, buttocks, anus,
14 genitals or pubic region by another person, with the intent to sexually arouse or excite another
15 person.

16 B. "Adult entertainment premises" means any premises to which any member of the public(~~(;~~
17 ~~patrons or members are))~~ is invited or admitted and wherein an entertainer provides adult entertainment
18 to any member of the public(~~(;~~~~a patron, or a member)~~); but does not include that portion of an
19 establishment licensed or required to be licensed as a "panoram" or "peepshow" under the provisions of
20 Seattle Municipal Code Chapter 6.42.

21 C. "Department" means the Department of Executive Administration of The City of Seattle.

22 D. "Director" means the Director of the Department of Executive Administration of The City of
23 Seattle and shall include his or her authorized representatives.
24

1 E. "Employee" means any and all persons, including managers, entertainers and independent
2 contractors, who work in or at or render any services directly related to, the operation of an adult
3 entertainment premises.

4 F. "Entertainer" means any person who provides adult entertainment within an adult
5 entertainment premises as defined in this section, whether or not a fee is charged or accepted for
6 entertainment.

7 G. "Entertainment" means any exhibition or dance of any type, pantomime, modeling or any
8 other performance.

9 H. "Manager" means any person who manages, directs, administers, or is in charge of, the
10 affairs and/or conduct of any portion of any activity involving adult entertainment occurring at any adult
11 entertainment premises.

12 I. "Member of the public" means any customer, patron, club member, or person, other than an
13 employee as defined in this section, who is invited or admitted to an adult entertainment premises.

14 ((I))J. "Natural person" means any individual.

15 ((J))K. "Operator" means any person operating, conducting or maintaining an adult
16 entertainment business. "Operator" also means any person to whom an adult entertainment premise
17 license is issued pursuant to this chapter.

18 ((K))L. "Person" means any individual, partnership, corporation, trust, incorporated or
19 unincorporated association, marital community, joint venture, governmental entity, or other entity or
20 group of persons however organized.

21 ((L))M. "Public place" means any area generally visible to public view and includes streets,
22 sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles whether moving or
23 not.

1 ((M. "Reckless" or "recklessly" means a person knows of and disregards a substantial risk that a
2 wrongful act may occur and his or her disregard of such substantial risk is a gross deviation from
3 conduct that a reasonable person would exercise in the same situation.))

4 **Section 3.** Section 6.270.040 of the Seattle Municipal Code is amended as follows:

5 **6.270.040 Adult entertainment premises license.**

6 A. It is unlawful for any person to operate or maintain an adult entertainment premises in The
7 City of Seattle unless the owner, operator or lessee thereof has obtained from the Director ((of Executive
8 Administration)) a license to do so, to be designated an "adult entertainment premises license."

9 B. It is unlawful for any person to knowingly allow the use of his or her property for the
10 operation of an adult entertainment premises that is not licensed under this chapter.

11 C. It is unlawful for any entertainer, employee or manager to knowingly work in or about, or to
12 knowingly perform any service or entertainment directly related to the operation of, an unlicensed adult
13 entertainment premises.

14 **Section 4.** Section 6.270.050 of the Seattle Municipal Code is amended as follows:

15 **6.270.050 License for managers and entertainers.**

16 ((Commencing December 5, 1988, it shall be)) A. It is unlawful for any person to work as an
17 entertainer ((or manager)) at an adult entertainment premises without having first obtained from the
18 Director ((of Executive Administration)) a license to do so, to be designated as an "adult entertainer's
19 license((;))"((or an "adult entertainment manager's license," respectively)).

20 B. It is unlawful for any person to work as a manager at an adult entertainment premises without
21 having first obtained from the Director a license to do so, to be designated as an "adult entertainment
22 manager's license."

23 **Section 5.** Section 6.270.060 of the Seattle Municipal Code is amended as follows:
24

6.270.060 License fees.

The license year for adult entertainment premises licenses and adult entertainment manager's licenses ((all fees)) required under this chapter shall be from January 1st to December 31st. The license year for adult entertainer's licenses required under this chapter shall be from August 1st to July 31st.

All license fees shall be payable on an annual basis, which fees shall be as follows:

- A. Adult entertainment premises license, Seven Hundred Twenty Dollars (\$720.00) per year;
- B. Adult entertainer's license, One Hundred Forty-five Dollars (\$145.00) per year;
- C. Adult entertainment manager's license, One Hundred Forty-five Dollars (\$145.00) per

year.

Any adult entertainer's license issued pursuant to this chapter which is in effect prior to August 1, 2005 shall, unless suspended or revoked, continue to be in effect until December 31, 2005 and may, unless suspended or revoked, be renewed for the period January 1, 2006 to July 31, 2006, subject to the provisions of this chapter and payment of a proportional license fee for such period in the amount of Eighty-four Dollars and Fifty Cents (\$84.50).

Section 6. A new section is added to the Seattle Municipal Code as follows:

6.270.065 License prohibited to certain classes.

No license authorized under this chapter shall be issued to:

A. A natural person who has not attained the age of eighteen (18) years.

B. A partnership, unless all of the members thereof are individually qualified to obtain a license as provided by this chapter. Such license shall be issued to the manager of the partnership.

C. A corporation, unless all of the officers and directors thereof are individually qualified to obtain a license as provided by this chapter.

1 **Section 7.** Section 6.270.070 of the Seattle Municipal Code is amended as follows:

2 **6.270.070 License applications.**

3 A. Adult Entertainment Premises License. All applications for an adult entertainment premises
4 license shall be submitted in the name of the person proposing to conduct such adult entertainment on
5 the premises and shall be signed by such person and notarized or certified as true under penalty of
6 perjury. All applications shall be submitted on a form supplied by the Director ~~((of Executive~~
7 ~~Administration))~~, and shall require the following information:

- 8 1. The name, residence address, home telephone number, date and place of birth, and social
9 security number of the applicant;
- 10 2. The business name, address and telephone number of the establishment;
- 11 3. The names, residence addresses, residence telephone numbers, social security numbers and
12 dates of births of any partners, corporate officers and directors;
- 13 4. Such information as the Director, by rule, may require concerning the identity of corporate
14 shareholders;
- 15 5. Addresses of the applicant for the five (5) years immediately prior to the date of application;
- 16 6. A description of the adult entertainment or similar business history of the applicant; whether
17 such person or entity, in previously operating in this or another city, county or state, has had a
18 business license revoked or suspended, the reason therefor, and the activity or occupation
19 subjected to such action, suspension or revocation;
- 20 7. A description of the business, occupation, or employment of the applicant for the three (3)
21 years immediately preceding the date of application;

1 8. ~~((Such license shall include t))~~The name of at least one (1) natural person whose name and
2 mailing address, which shall be an address located within the State of Washington, shall appear
3 on the adult entertainment premises license and who shall receive notices from the Department.

4 9. Whether the applicant has had a license under this chapter or an adult entertainment-related
5 license issued by another jurisdiction, denied, suspended or revoked within the three (3) years
6 immediately preceding the date of the application: and, if so, the name and location of the adult
7 entertainment business to which the denied, suspended or revoked license pertained, the date of
8 the action, the jurisdiction that took such action, the reason for the action, and the status of any
9 appeal of the action.

10 10. Whether the applicant has been the subject of a bail forfeiture, adverse finding or conviction
11 with local, state, or federal criminal law, other than a parking offense or traffic infraction, within
12 the five (5) years preceding the date of the application; and, if so, the nature of the crime and the
13 date, location and nature of the judicial action taken,

14 11. A failure to provide information required by this subsection will constitute an incomplete
15 application and will not be processed.

16 B. Manager's or Entertainer's License. All applications for an adult entertainment manager's
17 license or adult entertainer's license shall be signed by the applicant and notarized or certified as true
18 under penalty of perjury. All applications shall be submitted on a form supplied by the Director, and
19 shall require the following information:

- 20 1. The applicant's name, home address, home telephone number, date and place of birth, social
21 security number, and any stage names or nicknames used in entertaining;
22 2. The name and address of each business at which the applicant intends to work as a manager
23 or entertainer;
24

3. The applicant shall present documentation that he or she has attained the age of eighteen (18) years. Any of the following shall be accepted as documentation of age:

- a. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth,
- b. A state-issued identification card bearing the applicant's photograph and date of birth,
- c. An official passport issued by the United States of America,
- d. An immigration card issued by the United States of America,
- e. Any other picture identification bearing the applicant's photograph and date of birth issued by a governmental agency, or
- f. Such other form of identification as the Director deems, by rule, to be acceptable;

4. Whether the applicant has had a license under this chapter or an adult entertainment-related license issued by another jurisdiction denied, suspended or revoked within the three (3) years immediately preceding the application; and, if so, the name and location of the adult entertainment business to which the denied, suspended or revoked license pertained, the jurisdiction that took such action, the reason for the action, the date of the action and the status of any appeal of the action;

5. Whether the applicant has been the subject of a bail forfeiture, adverse finding or conviction in connection with local, state or federal criminal law, other than a parking offense or traffic infraction, within the five (5) years immediately preceding the date of the application; and if so, the nature of the crime and the date, location, and nature of the judicial action taken; and

6. Failure to provide information required by this subsection will constitute an incomplete application and will not be processed.

1 C. Duty to Supplement. Each license applicant for, or holder of, a license issued under this
2 chapter shall modify, or supplement application information, on file with the Director, within ten (10)
3 days of a change if the information changes materially from what is stated on the applicant or holder's
4 license application.

5 **Section 8.** Section 6.270.090 of the Seattle Municipal Code is amended as follows:

6 **6.270.090 Issuance of licenses.**

7 A. Adult Entertainment Premises License. Within thirty (30) days of receipt by the Director of a
8 complete application for an adult entertainment premises license, including all submittals and
9 information required by this chapter, the Director shall issue or deny the adult entertainment premises
10 license. If the Director fails to issue or deny the license within the thirty-day (30) period, the license is
11 deemed issued on the last day of the thirty-day (30) period and the applicant may operate the adult
12 entertainment premises for which the license was sought, subject to all other provisions of this chapter.

13 B. ~~((After an investigation, t))~~ The Director shall deny ((issue)) the ((applicable)) adult
14 entertainment premises license ((or licenses authorized by this chapter)) for any of the following
15 reasons, and shall notify the applicant in writing of the reasons for the denial and the opportunity to
16 appeal, if the Director finds:

- 17 1. The application does not meet the requirements of this chapter. ((That the business for which
18 a license is required herein will not be conducted in a building, structure and location which
19 complies with the requirements and meets the standards of the applicable health, zoning,
20 building, fire and safety laws of the State, the ordinances of the City, as well as the requirements
21 of this chapter;))
- 22 2. ~~((That t))~~ The applicant, his or her employee, agent, partner, director, officer, ((stockholder))
23 or manager has ((not)) knowingly made any false, misleading or fraudulent omission or
24

statement of material fact in the application for a license, or in any report or record required to be filed with the Director;

3. ~~((That-t))~~The applicant, and all employees, agents, partners, directors, officers, or managers of the applicant have not attained the age of eighteen (18) years or issuance of a license is prohibited by SMC Section 6.270.065((-));

4. The applicant or his or her partner, director, or officer is currently the subject of a final adult entertainment premises license suspension order or is the subject of an adult entertainment premises license revocation order issued pursuant to this chapter which became final less than one (1) year prior to the pending application.

C. Adult Entertainment Manager's and Adult Entertainer's Licenses.

The Director shall issue or deny an adult entertainment manager's license or an adult entertainer's license on the same business day in which a complete application, including all submittals and information required by this chapter, is received.

D. The Director shall deny an application for an adult entertainment manager's license or an adult entertainer's license for any of the following reasons, and shall notify the applicant in writing of the grounds for the denial and the opportunity to appeal, if the Director finds:

1. The applicant is less than eighteen (18) years old;

2. The applicant has failed to provide any of the submittals or information required to be supplied according to this chapter;

3. The applicant has knowingly made any false, misleading or fraudulent statement or omission of material fact in the application for a license; or

1 4. The applicant is currently the subject of a final license suspension order issued pursuant to
2 this chapter or is the subject of a license revocation order issued pursuant to this chapter which
3 became final less than one (1) year before the pending application.

4 E. If the Director denies an adult entertainment manager's license or an adult entertainer's
5 license authorized by this chapter, and if the applicant files a timely notice of appeal pursuant to SMC
6 Section 6.270.160, the Director shall, upon receipt of a copy of such notice of appeal, immediately issue
7 the applicant a temporary license which shall authorize the applicant to perform as a manager or
8 entertainer in the same manner and subject to the same requirements as if the license had been granted,
9 pending the final outcome of the appeal. A license applicant must pay the fee for an adult entertainment
10 manager's license or an adult entertainer's license as set forth in SMC Section 5.270.060 at the time the
11 temporary license is issued. The holder of a temporary license is subject to all requirements, standards
12 and penalty provisions of this chapter. Nothing in this section is intended to authorize activities that do
13 not comply with other requirements of the Seattle Municipal Code or other applicable law.

14 **Section 9.** Section 6.270.100 of the Seattle Municipal Code is amended as follows:

15 **6.270.100 Standards of conduct and operation.**

16 A. The following standards of conduct must be adhered to by employees of any adult
17 entertainment premises:

18 1. No employee or entertainer shall be unclothed, clothed in less than opaque attire, or shall
19 move or remove such attire, or allow such attire to be moved or removed so as to expose to view
20 any portion of the breast below the top of the areola or any portion of the pubic region, anus,
21 buttocks, vulva or genitals, except upon a stage as defined in SMC Section 6.270.100 B4 ((at
22 ~~least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from~~
23 ~~the nearest patron)).~~

1 2. No employee or entertainer shall perform acts of or acts which simulate:

2 a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or
3 any sexual acts which are prohibited by law;

4 b. The touching, caressing or fondling of the breasts, buttocks or genitals; or

5 c. The displaying of the pubic region, anus, vulva or genitals; except as provided for in
6 subdivision 1 of this subsection.

7 3. No employee or entertainer mingling with members of the ((patrons)) public shall:

8 a. ~~((b))~~Be unclothed or in less than opaque and complete attire, costume or clothing as
9 described in subdivision 1 of this subsection;~~((c))~~

10 b. Conduct any dance, performance or exhibition unless such dance, performance or
11 exhibition is performed at a distance of at least four (4) feet from the nearest member of
12 the public; or

13 c. Conduct any dance, performance or exhibition in any area described in SMC Section
14 6.270.100 B3.

15 4. No employee or entertainer shall knowingly:

16 a. Touch, caress or fondle the breast, buttocks, anus, genitals or pubic region of another
17 person; or

18 b. Permit the touching, caressing or fondling of his or her own breasts, buttocks, anus,
19 genitals or pubic region by another person; or

20 c. Permit any person upon the premises to touch, caress, or fondle the breasts, buttocks,
21 anus, genitals or pubic region of another person.

22 5. No manager or operator shall knowingly permit any person upon the premises to touch,
23 caress, or fondle the breasts, buttocks, anus, genitals or pubic region of another person.

6. No employee or entertainer shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva or genitals, anus, buttocks, or any portion of the pubic region.

7. No employee or entertainer shall use artificial devices or inanimate objects to depict any of the prohibited activities described in this subsection.

8. No entertainer of any adult entertainment premises shall be visible from any public place during the hours of his or her employment, or apparent hours of his or her employment, on the premises.

9. No entertainer shall solicit, demand or receive any payment or gratuity from any ~~((patron))~~ member of the public for any act prohibited by this chapter.

10. No entertainer shall demand or collect any payment or gratuity from any ~~((patron))~~ member of the public for entertainment before its completion. No entertainer shall accept any form of gratuity offered directly to the entertainer by any member of the public. Any gratuity offered to any entertainer must be placed into a receptacle for receipt of gratuities provided by the adult entertainment establishment or offered through a manager on duty on the premises.

11. ~~((A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows: THIS ADULT ENTERTAINMENT ESTABLISHMENT IS REGULATED BY THE CITY OF SEATTLE. ENTERTAINERS ARE:~~

a. ~~Not permitted to engage in any type of sexual conduct;~~

b. ~~No employee or entertainer shall be unclothed, clothed in less than opaque attire, or shall move or remove such attire, or allow such attire to be moved or removed so as to expose to view any portion of the breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, except upon a stage at least eighteen~~

1 inches (18") above the immediate floor level and removed at least six feet (6') from the
2 nearest patron.

3 e. Not permitted to demand or collect any payment or gratuity from any patron for
4 entertainment before its completion.))

5 ((12.)) No manager or operator shall knowingly ((or recklessly)) permit or allow any employee
6 or entertainer to violate any provision of this chapter.

7 B. At any adult entertainment premises, the following are required:

8 1. Neither the performance nor any photograph, drawing, sketch or other pictorial or graphic
9 representation thereof displaying any portion of the breasts below the top of the areola or any
10 portion of the pubic hair, buttocks, genitals and/or anus may be visible outside of the adult
11 entertainment premises.

12 2. Sufficient lighting shall be provided ((in)) and equally distributed throughout ((about)) the
13 parts of the premises which are open to and used by the public so that all objects are plainly
14 visible at all times. A minimum lighting level of thirty (30) lux horizontal, measured at thirty
15 (30) inches from the floor and on ten (10)-foot centers, is hereby established for all parts of the
16 premises which are open to and used by the public.

17 3. No entertainment shall be provided in any area((s)) from which any other person may be
18 prevented from entering, whether by a locking door or in any other manner and no entertainment
19 shall be provided in any area which is enclosed or partially enclosed by interior walls, dividers,
20 barricades, curtains or other means or in any area in which the dance, performance or exhibition
21 is not clearly visible from all public areas inside the adult entertainment premises.

22 4. A stage, for any performance described in SMC Section 6.270.100 A1. Such stage shall be at
23 least eighteen (18) inches in elevation above the level of the patron seating areas and shall be
24



1 separated by a distance of at least six (6) feet from all areas of the premises to which the
2 members of the public have access. A continuous railing, at least three (3) feet in height and
3 located at least six (6) feet from all points of the stage, shall separate the stage from seating areas
4 for members of the public.

5 5. The stage must be visible immediately upon entering the premise's seating area, and, at all
6 times, be visible to a manager. Visibility shall not be blocked or obstructed by a door, curtain,
7 drape or any other obstruction.

8 6. A sign shall be conspicuously displayed in the common area of the premises, and shall read as
9 follows:

10 THIS ADULT ENTERTAINMENT ESTABLISHMENT IS REGULATED BY THE CITY OF
11 SEATTLE.

12 a. Entertainers are not permitted to engage in any type of sexual conduct;

13 b. No employee or entertainer shall be unclothed, clothed in less than opaque attire, or
14 shall move or remove such attire, or allow such attire to be moved or removed so as to
15 expose to view any portion of the breast below the top of the areola or any portion of the
16 pubic region, anus, buttocks, vulva or genitals, except upon a stage at least eighteen (18)
17 inches above the immediate floor level and removed at least six (6) feet from the nearest
18 member of the public.

19 c. Entertainers are not permitted to demand or collect any payment or gratuity from any
20 member of the public for entertainment before its completion.

21 d. Entertainers are not permitted to accept any form of gratuity directly from a member
22 of the public. Any gratuity offered to any entertainer must be placed into a receptacle for
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1 receipt of gratuities provided by the adult entertainment establishment or offered through
2 a manager on duty on the premises.

3 e. Entertainers mingling with the public may not conduct any dance, performance or
4 exhibition unless such dance, performance or exhibition is performed at a distance of at
5 least four (4) feet from the nearest member of the public.

6 7. Each adult entertainment premises licensee and each adult entertainment manager shall have a
7 duty to ensure that all standards of conduct and facilities requirements set forth in this section and all
8 other requirements of this chapter regarding the operation of adult entertainment premises are complied
9 with at all times.

10 C. This chapter shall not be construed to prohibit protected expression, such as:

- 11 1. Plays, operas, musicals, or other dramatic works that are not obscene;
- 12 2. Classes, seminars and lectures held for serious scientific or educational purposes that are not
- 13 obscene; or
- 14 3. Exhibitions, performances, expressions or dances that are not obscene.

15 D. For purposes of this chapter, an activity is "obscene" if:

- 16 1. Taken as a whole by an average person applying contemporary community standards the
- 17 activity appeals to a prurient interest in sex;
- 18 2. The activity depicts patently offensive representations, as measured against community
- 19 standards, of:

- 20 a. Ultimate sexual acts, normal or perverted, actual or simulated, or
- 21 b. Masturbation, fellatio, cunnilingus, bestiality, excretory functions, or lewd exhibition
- 22 of the genitals or genital area; or violent or destructive sexual acts, including but not
- 23 limited to human or animal mutilation, dismemberment, rape or torture; and
- 24

3. The activity taken as a whole lacks serious literary, artistic, political, or scientific value.

E. No manager, owner, entertainer or employee shall operate or maintain any warning procedures or device, of any nature or kind, for the purpose of warning any other person that police officers or City health, fire, licensing or building inspectors are approaching or have entered the adult entertainment premises.

~~((F. It is unlawful for any person to violate any of the provisions of this Section 6.270.100.))~~

Section 10. A new section is added to the Seattle Municipal Code as follows:

6.270.115 Unlawful Acts

It is unlawful for any person to violate any of the provisions of this chapter.

Section 11. Section 6.270.120 of the Seattle Municipal Code is amended as follows:

6.270.120 Manager on premises.

A. A licensed manager shall be on duty at an adult entertainment premises during the adult entertainment premises' hours of operation. The name of the manager on duty shall be prominently posted during business hours.

B. Any adult entertainment premises found to be operating without a manager on duty shall be immediately closed until a licensed manager arrives for duty at the adult entertainment premises pursuant to Section 6.270.120 A.

C. The manager shall verify that each entertainer performing while the manager is on duty possesses a current and valid entertainer's license, as required by this chapter. The manager shall verify that such adult entertainment license is posted in the manner required by Section 6.270.110.

D. A manager shall not perform as an entertainer on days during which he or she acts as manager on duty at an adult entertainment establishment.

Section 12. A new section is added to Chapter 6.270 of the Seattle Municipal Code as follows:

1 **6.270.125 Permission to Inspect.**

2 An adult entertainment premises licensee and its manager shall permit the Director and personnel
3 from the Seattle Police Department to conduct announced inspections, during hours that the adult
4 entertainment premises is open to the public, of all exterior and interior areas of the premises open to
5 and used by members of the public and of all books and records required to be kept under this chapter.
6 The purpose of such inspections is to determine whether the premises are being operated in compliance
7 with the provisions of this chapter.

8 **Section 13.** A new section is added to Chapter 6.270 of the Seattle Municipal Code as follows:

9 **SMC 6.270.135 Nonpublic Areas.**

10 No member of the public shall be permitted to enter into any of the nonpublic portions of the
11 adult entertainment establishment, which shall include but are not limited to: the dressing rooms of
12 entertainers or other rooms provided for the benefit of employees, and the kitchen and storage areas;
13 except that persons delivering goods and materials, food and beverages, or performing maintenance or
14 repairs to the premises or equipment on the premises may be permitted into nonpublic areas to the extent
15 required to perform their job duties.

16 **Section 14.** Section 6.270.150 of the Seattle Municipal Code is amended as follows:

17 **6.270.150 Suspension or revocation of ((premises)) license.**

18 ~~((In addition to the reasons set forth in SMC Section 6.202.230 as now or hereafter amended, an~~
19 ~~adult entertainment premises license may be suspended or revoked upon a finding that:~~

20 ~~A. The premises licensee permitted or authorized his or her employees, agents, entertainers or~~
21 ~~managers to violate any of the provisions of this chapter; or~~

22 ~~B. The adult entertainment manager permitted or authorized any violation of any of the~~
23 ~~provisions of this chapter by any person.))~~

1 A. The Director may suspend or revoke a license issued under this chapter in accordance with
2 the following:

3 1. If a licensee obtained or renewed a license through a false, misleading or fraudulent omission
4 or statement of material fact either on the application for the license or the license renewal, the
5 license shall be revoked;

6 2. If a licensee violates any other provision of this chapter, the license shall be:

7 a. Suspended for thirty (30) days for a first violation.

8 b. Suspended for ninety (90) days for a second violation within any twenty-four (24)
9 month period.

10 c. Revoked for a third violation within any twenty-four (24) month period.

11 3. Time spent serving a suspension is not counted in determining the twenty-four (24) month
12 period referred to in subsection A2 of this section.

13 4. For an adult entertainment premises licensee, a violation for which an adult entertainment
14 premises license may be suspended or revoked includes a violation of this chapter by a manager,
15 employee, agent, entertainer or any other person, occurring on the premises when the adult
16 entertainment premises licensee knew of or should have known of the violation.

17 5. For an adult entertainment manager licensee, a violation for which an adult entertainment
18 manager's license may be suspended or revoked includes a violation of this chapter by an adult
19 entertainer or other person when the adult entertainment manager knew of or should have known
20 of the violation.

21 6. If a licensee is convicted of committing a crime or offense involving one of the following
22 occurring on the premises of an adult entertainment establishment, the license shall be revoked:

23 a. A violation of RCW 9A.88.030, 9A.88.070, 9A.88.080 or 9A.88.090;

1 b. A violation of SMC Sections 12A.10.020 or 12A.10.060;

2 c. A transaction involving a controlled substance as defined in chapter 69.50 RCW; or

3 d. A violation of chapter 9A.44 RCW, Sex Offenses or chapter 9.68A RCW, Sexual
4 Exploitation of Children.

5 B. For an adult entertainment premises licensee, a conviction for which the adult entertainment
6 premises license may be revoked includes the conviction of a manager, employee, agent or entertainer
7 for a crime or offense listed in subsection A6 of this section occurring on the premises of the adult
8 entertainment establishment when the adult entertainment premises licensee knew of or should have
9 known of the crime or offense.

10 C. For an adult entertainment manager licensee, a conviction for which the adult entertainment
11 manager's license may be revoked includes the conviction of an employee or entertainer for a crime or
12 offense listed in subsection A6 of this section occurring on the premises of the adult entertainment
13 establishment when the adult entertainment manager licensee knew of or should have known of the
14 crime or offense.

15 D. A licensee whose license has been revoked is not eligible to reapply for any license
16 authorized by this chapter for one year following the date the decision to revoke is final.

17 E. On receipt of a notice of suspension or revocation, the license holder shall promptly deliver
18 the license to the Director unless an appeal is pending under this chapter. Upon expiration of a license
19 suspension, the Director shall return the license to the license holder.

20 F. For purposes of this section, a person "should have known" of a crime or offense or violation
21 of this chapter, when the person has information which would lead a reasonable person to believe that a
22 crime or offense or violation of this chapter is occurring or will occur.

1 G. If the Director determines that a condition exists on an adult entertainment premises which
2 constitutes a threat of immediate serious injury or damage to a person or property, the Director may
3 immediately suspend an adult entertainment premises license. The Director shall issue a notice setting
4 forth the basis for the action and the facts that constitute a threat of immediate serious injury or damage
5 to a person or property.

6 **Section 15.** A new section is added to Chapter 6.270 of the Seattle Municipal Code as follows:

7 **6.270.160 Appeal of denial, suspension or revocation.**

8 A. If the Director has ordered a license authorized by this chapter be denied, suspended or
9 revoked, the applicant or licensee may appeal such order only by filing a notice of appeal to the Seattle
10 Municipal Court and serving the Director with a copy of the notice of appeal within ten (10) days after
11 personal service of or mailing of the order. The notice of appeal must specify the particular reason(s)
12 upon which the appeal is based.

13 B. The matter shall be granted priority in Seattle Municipal Court and the decision of the
14 Municipal Court shall be final subject only to judicial review.

15 C. Except for cases involving a denial of an adult entertainment premises license or a license
16 suspended pursuant to SMC Section 6.270.150 G, orders of the Director suspending, revoking or
17 denying a license shall be stayed pending judicial review in Municipal Court.

18 D. In cases involving a denial of an adult entertainment premises license, if the Municipal Court
19 has not issued a final determination within sixty (60) days after filing of the notice of appeal or such
20 longer time as may have been agreed to by the person challenging the Director's order, the Director shall
21 issue a temporary license which shall be valid only until the court renders its determination affirming the
22 license denial or requiring the issuance of the license. A delay caused by or requested by the person
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1 challenging the Director's order, including a motion for a continuance of a hearing, shall not be counted
2 in determining the sixty (60) day period referred to in this section.

3 E. If a stay of a suspension or revocation is still in effect at the end of a license year then, in
4 order to continue to use the license during the stay after the end of the license year, the licensee must
5 pay the annual license fee set forth in SMC Section 6.270.060 to obtain a renewal of the license. A
6 license suspension that extends beyond the end of the license year shall remain in effect, and any
7 renewal license issued shall not be effective until the completion of the term of the license suspension.

8 **Section 16.** A new section is added to Chapter 6.270 if the Seattle Municipal Code as follows:

9 **6.270.170 Public Nuisance.**

10 An adult entertainment premises operated, conducted or maintained in violation of this chapter or
11 any law of the City of Seattle or the State of Washington shall be, and the same is, declared to be
12 unlawful and a public nuisance. The City Attorney may, in addition to, or in lieu of, any other remedies
13 set forth in this chapter, commence an action to enjoin, remove or abate such nuisance and may take
14 such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will
15 abate or remove such public nuisance, and restrain and enjoin any person from operating, conducting or
16 maintaining an adult entertainment premises contrary to the provisions of this chapter.

17 **Section 17.** Section 6.202.280 of the Seattle Municipal Code is amended as follows:

18 **6.202.280 Continuation of business while complaint hearing decision pending**

19 ~~((A.))~~ Except in the case of summary suspension or revocation, whenever a timely request for
20 hearing on a complaint is filed, a licensee or an applicant for license renewal may engage in the activity
21 for which the license is required, pending decision by the Hearing Examiner. An applicant not licensed
22 in the preceding license year may not engage in the activity for which the license is required pending
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1 decision by the Hearing Examiner. Nothing in this section is intended to authorize activities that do not
2 comply with other requirements of the Seattle Municipal Code or other applicable law.

3 ~~((B. If the Department denies an adult entertainment license governed by SMC Chapter 6.270,~~
4 ~~and if the license applicant files a notice of appeal with the Hearing Examiner, the Director shall~~
5 ~~immediately issue the license applicant a temporary license. The temporary license shall authorize the~~
6 ~~license applicant to operate an adult entertainment establishment or perform as a manager or entertainer,~~
7 ~~in the same manner as if the license had been granted, pending the Hearing Examiner's decision.~~

8 ~~1. If the Hearing Examiner affirms the Director's license denial, the temporary license~~
9 ~~shall remain in effect pending a motion for reconsideration before the Hearing Examiner~~
10 ~~and, in addition (a) if the license applicant does not timely file for judicial review, then~~
11 ~~only until the expiration of the time allowed to file an application for a writ of review~~
12 ~~under Chapter 7.16 RCW; or (b) if the license applicant does timely file an application~~
13 ~~for a writ of review, then only until the court either issues a writ or denies the writ~~
14 ~~application.~~

15 ~~2. If the Hearing Examiner dismisses the adult entertainment license denial with~~
16 ~~prejudice, the Department shall immediately issue an adult entertainment license.~~

17 ~~3. If the Hearing Examiner dismisses the adult entertainment denial without prejudice,~~
18 ~~the temporary license shall remain in effect for five (5) additional business days, at the~~
19 ~~end of which time the Department must either reissue a denial or issue an adult~~
20 ~~entertainment license. If the Director reissues the denial, then the temporary license will~~
21 ~~continue in effect according to the procedures set forth in subsection B of this section.~~

22 ~~4. Notwithstanding SMC Section 6.202.210, if a license applicant is issued a temporary~~
23 ~~license, the license applicant shall pay the fee charged for an adult entertainment license~~
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1 ~~under SMC Section 6.270.060 at the time the applicant receives the temporary license. If~~
2 ~~the temporary license issued under this subsection is still in effect at the end of a calendar~~
3 ~~year, then the license applicant must pay the fee charged for an adult entertainment~~
4 ~~license under SMC Section 6.270.060 for the next calendar year.))~~

5 **Section 18.** Section 6.202.310 of the Seattle Municipal Code is amended as follows:

6 **6.202.310 Hearing Examiner -- Decision final -- Mandatory stay pending review.**

7 The decision of the Hearing Examiner shall be final when the decision has been mailed to the
8 last known address of each party. The Director may stay enforcement of a decision of the Hearing
9 Examiner pending motion for reconsideration or pending judicial consideration of a stay, where the
10 Director determines that no clear, substantial, and imminent hazard to the health, safety, welfare, privacy
11 or property of any person would result. ~~((In the case of adult entertainment licenses governed by SMC~~
12 ~~Chapter 6.270, the Director shall stay enforcement of a decision of the Hearing Examiner affirming~~
13 ~~suspension or revocation of a license pending a motion for reconsideration before the Hearing Examiner~~
14 ~~and shall stay enforcement of such decision (A) if no application for judicial review is timely filed, then~~

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~~only until the expiration of time allowed to file such application under RCW Chapter 7.16; or (B) if an application for judicial review is timely filed, then only until a writ is issued or the application for writ has been denied.))~~

Section 19. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2005, and signed by me in open session in authentication of its passage this ____ day of _____, 2005.

President _____ of the City Council

Approved by me this ____ day of _____, 2005.

Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2005.

City Clerk

(Seal)



STATE OF WASHINGTON – KING COUNTY

--SS.

190880
CITY OF SEATTLE, CLERKS OFFICE

No.

Affidavit of Publication

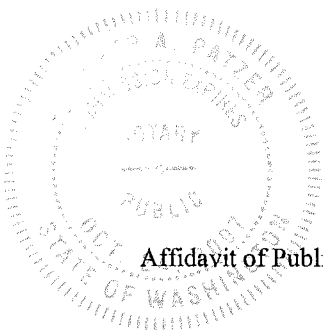
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published 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

CT:121952 ORDINANCE

was published on

10/14/05



Affidavit of Publication

A handwritten signature in cursive script, likely of the subscriber, written above the signature line.

Subscribed and sworn to before me on

10/14/05

A handwritten signature in cursive script, likely of the notary public, written across the signature line.

Notary public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 121952

AN ORDINANCE relating to regulation of adult entertainment; adding new sections to the Seattle Municipal Code; and amending Sections 6.202.280, 6.202.310, 6.270.010, 6.270.030, 6.270.040, 6.270.050, 6.270.060, 6.270.070, 6.270.090, 6.270.100, 6.270.120, and 6.270.150 of the Seattle Municipal Code.

WHEREAS, the operation of adult entertainment businesses has historically and regularly been accompanied by secondary effects, including prostitution and other criminal behavior, that are detrimental to the public health, safety, and general welfare of the citizens of Seattle; and

WHEREAS, resources available for responding to problems associated with adult entertainment businesses are limited and will be more efficiently and effectively utilized through improved regulations of adult entertainment premises; and

WHEREAS, amendments to the City's adult entertainment regulations are necessary to protect the public health, safety, and general welfare of the citizens of Seattle; and

WHEREAS, nothing in these amendments is intended to authorize activities that do not comply with other requirements of the Seattle Municipal Code, including Title 23, the Land Use Code, or other applicable law; and

WHEREAS, a Clerk's File, Number 307550, has been opened as a depository for the documents, statements and other written materials received by the Council related to this ordinance; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 6.270.010 of the Seattle Municipal Code is amended as follows:

6.270.010 Findings of fact.

Based on public testimony and other evidence and information before it, the Seattle City Council makes the following findings of fact:

A. Certain conduct occurring on premises offering adult entertainment is detrimental to the public health, safety, and general welfare of the citizens of the City and therefore, such conduct must be regulated as provided herein.

B. Regulation of the adult entertainment industry is necessary because in the absence of such regulation significant criminal activity has historically and regularly occurred.

C. It is necessary to license entertainers in the adult entertainment industry to prevent the exploitation of minors; to ensure that each such entertainer is an adult; and to ensure that such entertainers have not assumed a false name, which would make regulation of the entertainer difficult or impossible.

D. It is necessary to have a licensed manager on the premises of an establishment during the establishment's hours of operation so that there will at all necessary times be an individual responsible for the overall operation of the establishment, including the actions of ((patrons)) members of the public; entertainers and other employees.

E. The license fees required herein are nominal fees imposed as necessary regulatory measures designed to help defray the substantial expenses incurred by the City in regulating the adult entertainment industry.

F. Businesses providing adult entertainment are increasingly associated with ongoing prostitution, disruptive conduct and other criminal activity which is currently not subject to effective regulation and which constitutes an immediate threat to the public peace, health and safety.

State of Washington, King County

G. The City Council makes the following additional findings of fact based upon public testimony and other evidence, information, documents and other materials received by the City Council and included in the legislative record of Council Bill 115326. The City Council also makes such findings having taken legislative notice of the evidence of conduct occurring in and around adult entertainment businesses located in other jurisdictions, which the council hereby deems to be relevant to the experience in Seattle, as reported in judicial opinions including but not limited to *Ino Ino, Inc. v. City of Bellevue*, 132 Wn.2d 103 (1997); *DCR, Inc. v. Pierce County*, 92 Wn. App. 660 (1998); *Kew, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986); and *Colacurcio v. City of Kent*, 163 F.3d 545 (9th Cir. 1998) and as reported in previous studies of the City of Seattle and the findings of other city and county legislative bodies that have also adopted ordinances regulating adult entertainment businesses, including but not limited to, the counties of King and Snohomish and the cities of Bellevue, Burien, Des Moines, Everett, Federal Way, Kent, Lake Forest Park, Lynnwood, Renton, Shoreline and Tukwila.

1. The operation of adult entertainment businesses has historically and regularly been accompanied by secondary effects which are detrimental to the public health, safety, morals and general welfare of the citizens of Seattle. Such secondary effects include significant criminal conduct, and activities injurious to the public health, safety, morals and general welfare of the community, detrimental effects on nearby businesses and residential areas and a decline in property values in the area around adult entertainment businesses. This history of criminal and injurious activity includes prostitution, narcotics and liquor law violations, breaches of the peace, assaults, sexual conduct between customers and entertainers, and the opportunity for the spread of sexually-transmitted diseases.

2. Proximity between entertainers and customers in adult clubs facilitates sexual conduct, prostitution, transactions involving controlled substances and other crimes. To deter such conduct and assist law enforcement in detecting it, Seattle has required that an adult entertainer exposing nudity must be separated from customers by performing on a stage at least eighteen inches above the floor and at least six feet from the nearest patron. Additionally, Seattle has historically prohibited entertainers performing "lap" or "table" dances from engaging in sexual contact with customers. There is substantial evidence that such prohibitions are ineffective. Lap and table dances typically involve exposure of nudity or sexual conduct between entertainers and customers, or both, and may also include acts of prostitution, transactions involving controlled substances and other crimes. To effectively deter such conduct and assist law enforcement in detecting it, it is necessary that dances and performances by adult entertainers mingling with the public be at least four feet from the nearest member of the public. Such a requirement is in effect in the City of Bellevue and in other Washington cities and has been upheld by the Washington Supreme Court as a constitutional regulation that furthers the governmental interest in preventing sexual conduct and other criminal conduct while still allowing an entertainer to convey an erotic expression (see *Ino Ino, Inc. v. City of Bellevue*, 132 Wn.2d 103 (1997)).

3. To prevent sexual conduct from occurring between entertainers and customers, customers must be prohibited from passing tips, gratuities or other payments directly to entertainers. Such a prohibition is in effect in King County, the City of Kent and the City of Bellevue and has been upheld as a constitutional regulation that furthers the governmental interest in preventing sexual contact and other criminal conduct while still allowing an entertainer to perform (see *Ino Ino, Inc. v. City of Bellevue*, 132 Wn.2d 103, 937 P.2d 154 (1997) and *DCR, Inc. v. Pierce County*, 92 Wn. App. 660 (1998)).

4. Adult entertainment businesses have historically attempted to prevent law enforcement and licensing officials from detecting sexual conduct, prostitution, sale and distribution of controlled substances and other violations of law occurring on the premises by employing warning systems, maintaining low light levels and other techniques. Some adult entertainment businesses have erected barriers or installed seating or lounge areas

which provide visual barriers that screen activities between entertainers and members of the public. For effective enforcement of this ordinance and protection of the public health, safety, and general welfare, it is necessary to require that adult entertainment businesses maintain minimum light levels and contain no barriers which would hinder law enforcement from monitoring the activities between adult entertainers and members of the public.

5. Resources available for responding to problems associated with adult entertainment businesses are limited and will be more efficiently and effectively utilized through regulations which will deter sexual contact between adult entertainers and members of the public, including regulations requiring minimum distance requirements between dancers and members of the public, the absence of visual barriers, minimum lighting requirements and tipping restrictions.

Section 2. Section 6.270.030 of the Seattle Municipal Code is amended as follows:

6.270.030 Definitions.

For the purposes of this chapter and unless the context plainly requires otherwise, the following definitions are adopted:

A. "Adult entertainment" means any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance involves a person who:

1. Is und clothed or in such attire, costume or clothing as to expose to view any portion of the breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals; or

2. Touches, caresses or fondles the breasts, buttocks, anus, genitals or pubic region of another person, or permits the touching, caressing or fondling of his/her own breasts, buttocks, anus, genitals or pubic region by another person, with the intent to sexually arouse or excite another person.

B. "Adult entertainment premises" means any premises to which any member of the public ((patrons or members are)) is invited or admitted and wherein an entertainer provides adult entertainment to any member of the public ((a patron, or a member)); but does not include that portion of an establishment licensed or required to be licensed as a "parlor" or "peepshow" under the provisions of Seattle Municipal Code Chapter 6.42.

C. "Department" means the Department of Executive Administration of The City of Seattle.

D. "Director" means the Director of the Department of Executive Administration of The City of Seattle and shall include his or her authorized representatives.

E. "Employee" means any and all persons, including managers, entertainers and independent contractors, who work in or at or render any services directly related to, the operation of an adult entertainment premises.

F. "Entertainer" means any person who provides adult entertainment within an adult entertainment premises as defined in this section, whether or not a fee is charged or accepted for entertainment.

G. "Entertainment" means any exhibition or dance of any type, pantomime, modeling or any other performance.

H. "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 adult entertainment premises.

I. "Member of the public" means any customer, patron, club member, or person other than an employee as defined in this section, who is invited or admitted to an adult entertainment premises.

((H))J. "Natural person" means any individual.

((H))K. "Operator" means any person operating, conducting or maintaining an adult entertainment business. "Operator" also means any person to whom an adult entertainment premise license is issued pursuant to this chapter.

((H))L. "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.

((B))M. "Public place" means any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles whether moving or not.

((M))N. "Reckless" or "recklessly" means a person knows of and disregards a substantial risk that a wrongful act may occur and his or her disregard of such substantial risk is a gross deviation from conduct that a reasonable person would exercise in the same situation.

Section 3. Section 6.270.040 of the Seattle Municipal Code is amended as follows:

6.270.040 Adult entertainment premises license.

A. It is unlawful for any person to operate or maintain an adult entertainment premises in The City of Seattle unless the owner, operator or lessee thereof has obtained from the Director ((of Executive Administration)) a license to do so, to be designated an "adult entertainment premises license."

B. It is unlawful for any person to knowingly allow the use of his or her property for the operation of an adult entertainment premises that is not licensed under this chapter.

C. It is unlawful for any entertainer, employee or manager to knowingly work in or about, or to knowingly perform any service or entertainment directly related to the operation of, an unlicensed adult entertainment premises.

Section 4. Section 6.270.050 of the Seattle Municipal Code is amended as follows:

6.270.050 License for managers and entertainers.

((Commencing December 5, 1988, it shall be)) A. It is unlawful for any person to work as an entertainer ((or manager)) at an adult entertainment premises without having first obtained from the Director ((of Executive Administration)) a license to do so, to be designated as an "adult entertainer's license ((s))" ((or an "adult entertainment manager's license," respectively)).

B. It is unlawful for any person to work as a manager at an adult entertainment premises without having first obtained from the Director a license to do so, to be designated as an "adult entertainment manager's license."

Section 5. Section 6.270.060 of the Seattle Municipal Code is amended as follows:

6.270.060 License fees.

The license year for adult entertainment premises licenses and adult entertainment manager's licenses ((and fees)) required under this chapter shall be from January 1st to December 31st. The license year for adult entertainer's licenses required under this chapter shall be from August 1st to July 31st. All license fees shall be payable on an annual basis, which fees shall be as follows:

A. Adult entertainment premises license, Seven Hundred Twenty Dollars (\$720.00) per year;

B. Adult entertainer's license, One Hundred Forty-five Dollars (\$145.00) per year;

C. Adult entertainment manager's license, One Hundred Forty-five Dollars (\$145.00) per year.

Any adult entertainer's license issued pursuant to this chapter which is in effect prior to August 1, 2005 shall, unless suspended or revoked, continue to be in effect until December 31, 2005 and may, unless suspended or revoked, be renewed for the period January 1, 2006 to July 31, 2006, subject to the provisions of this chapter and payment of a proportional license fee for such period in the amount of Eighty-four Dollars and Fifty Cents (\$84.50).

Section 6. A new section is added to the Seattle Municipal Code as follows:

6.270.065 License prohibited to certain classes.

No license authorized under this chapter shall be issued to:

A. A natural person who has not attained the age of eighteen (18) years.

B. A partnership, unless all of the members thereof are individually qualified to obtain a license as provided by this chapter. Such license shall be issued to the manager of the partnership.

C. A corporation, unless all of the officers and directors thereof are individually qualified to obtain a license as provided by this chapter.

Section 7. Section 6.270.070 of the Seattle Municipal Code is amended as follows:

6.270.070 License applications.

A. Adult Entertainment Premises License. All applications for an adult entertainment premises license shall be submitted in the name of the person proposing to conduct such adult entertainment on the premises and shall be signed by such person and notarized or certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the Director (of Executive Administration), and shall require the following information:

1. The name, residence address, home telephone number, date and place of birth, and social security number of the applicant;

2. The business name, address and telephone number of the establishment;

3. The names, residence addresses, residence telephone numbers, social security numbers and dates of births of any partners, corporate officers and directors;

4. Such information as the Director, by rule, may require concerning the identity of corporate shareholders;

5. Addresses of the applicant for the five (5) years immediately prior to the date of application;

6. A description of the adult entertainment or similar business history of the applicant; whether such person or entity, in previously operating in this or another city, county or state, has had a business license revoked or suspended, the reason therefor, and the activity or occupation subjected to such action, suspension or revocation;

7. A description of the business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application;

8. ((Such license shall include -t)) The name of at least one (1) natural person whose name and mailing address, which shall be an address located within the State of Washington, shall appear on the adult entertainment premises license and who shall receive notices from the Department.

9. Whether the applicant has had a license under this chapter or an adult entertainment-related license issued by another jurisdiction, denied, suspended or revoked within the three (3) years immediately preceding the date of the application; and, if so, the name and location of the adult entertainment business to which the denied, suspended or revoked license pertained, the date of the action, the jurisdiction that took such action, the reason for the action, and the status of any appeal of the action.

10. Whether the applicant has been the subject of a bail forfeiture, adverse finding or conviction with local, state, or federal criminal law, other than a parking offense or traffic infraction, within the five (5) years preceding the date of the application; and, if so, the nature of the crime and the date, location and nature of the judicial action taken.

11. A failure to provide information required by this subsection will constitute an incomplete application and will not be processed.

B. Manager's or Entertainer's License. All applications for an adult entertainment manager's license or adult entertainer's license shall be signed by the applicant, and notarized or certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the Director, and shall require the following information:

1. The applicant's name, home address, home telephone number, date and place of birth, social security number, and any stage names or nicknames used in entertaining;

2. The name and address of each business at which the applicant intends to work as a manager or entertainer;

3. The applicant shall present documentation that he or she has attained the age of eighteen (18) years. Any of the following shall be accepted as documentation of age:

a. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth,

b. A state-issued identification card bearing the applicant's photograph and date of birth,

c. An official passport issued by the United States of America,

d. An immigration card issued by the United States of America,

e. Any other picture identification bearing the applicant's photograph and date of birth issued by a governmental agency, or

f. Such other form of identification as the Director deems, by rule, to be acceptable;

4. Whether the applicant has had a license under this chapter or an adult entertainment-related license issued by another jurisdiction denied, suspended or revoked within the three (3) years immediately preceding the application; and, if so, the name and location of the adult entertainment business to which the denied, suspended or revoked license pertained, the jurisdiction that took such action, the reason for the action, the date of the action and the status of any appeal of the action;

5. Whether the applicant has been the subject of a bail forfeiture, adverse finding or conviction in connection with local, state or federal criminal law, other than a parking offense or traffic infraction, within the five (5) years immediately preceding the date of the application; and, if so, the nature of the crime and the date, location, and nature of the judicial action taken; and,

6. Failure to provide information required by this subsection will constitute an incomplete application and will not be processed.

C. Duty to Supplement. Each license applicant for, or holder of, a license issued under this chapter shall modify, or supplement application information, on file with the Director, within ten (10) days of a change if the information changes materially from what is stated on the applicant or holder's license application.

Section 8. Section 6.270.090 of the Seattle Municipal Code is amended as follows:

6.270.090 Issuance of licenses.

A. Adult Entertainment Premises License. Within thirty (30) days of receipt by the Director of a complete application for an adult entertainment premises license, including all submittals and information required by this chapter, the Director shall issue or deny the adult entertainment premises license. If the Director fails to issue or deny the license within the thirty-day (30) period, the license is deemed issued on the last day of the thirty-day (30) period and the applicant may operate the adult entertainment premises for which the license was sought, subject to all other provisions of this chapter.

B. ((After an investigation, -t)) The Director shall deny ((issue)) the ((applicable)) adult entertainment premises license ((or licenses authorized by this chapter)) for any of the following reasons, and shall notify the applicant in writing of the reasons for the denial and the opportunity to appeal, if the Director finds:

1. The application does not meet the requirements of this chapter. ((That the business for which a license is required herein will not be conducted in a building, structure and location which complies with the requirements and meets the standards of the applicable health, zoning, building, fire and safety laws of the State, the ordinances of the City, as well as the requirements of this chapter))

2. ((That -t)) The applicant, his or her employee, agent, partner, director, officer, ((stockholder)) or manager has ((not)) knowingly made any false, misleading or fraudulent omission or statement of material fact in the application for a license, or in any report or record required to be filed with the Director;

3. ((That -t)) The applicant, and all employees, agents, partners, directors, officers, or managers of the applicant have not attained the age of eighteen (18) years or issuance of a license is prohibited by SMC Section 6.270.065((-));

4. The applicant or his or her partner, director or officer is currently the subject of a final adult entertainment premises license suspension order or is the subject of an adult entertainment premises license revocation order issued pursuant to this chapter which became final less than one (1) year prior to the pending application.

C. Adult Entertainment Manager's and Adult Entertainer's Licenses.

The Director shall issue or deny an adult entertainment manager's license or an adult entertainer's license on the same business day in which a complete application, including all submittals and information required by this chapter, is received.

D. The Director shall deny an application for an adult entertainment manager's license or an adult entertainer's license for any of the following reasons, and shall notify the applicant in writing of the grounds for the denial and the opportunity to appeal, if the Director finds:

1. The applicant is less than eighteen (18) years old;

2. The applicant has failed to provide any of the submittals or information required to be supplied according to this chapter;

3. The applicant has knowingly made any false, misleading or fraudulent statement or omission of material fact in the application for a license; or

4. The applicant is currently the subject of a final license suspension order issued pursuant to this chapter or is the subject of a license revocation order issued pursuant to this chapter which became final less than one (1) year before the pending application.

E. If the Director denies an adult entertainment manager's license or an adult entertainer's license authorized by this chapter, and if the applicant files a timely notice of appeal pursuant to SMC Section 6.270.160, the Director shall, upon receipt of a copy of such notice of appeal, immediately issue the applicant a temporary license which shall authorize the applicant to perform as a manager or entertainer in the same manner and subject to the same requirements as if the license had been granted, pending the final

outcome of the appeal. A license applicant must pay the fee for an adult entertainment manager's license or an adult entertainer's license as set forth in SMC Section 6.270.060 at the time the temporary license is issued. The holder of a temporary license is subject to all requirements, standards and penalty provisions of this chapter. Nothing in this section is intended to authorize activities that do not comply with other requirements of the Seattle Municipal Code or other applicable law.

Section 9. Section 6.270.100 of the Seattle Municipal Code is amended as follows:

6.270.100 Standards of conduct and operation.

A. The following standards of conduct must be adhered to by employees of any adult entertainment premises:

1. No employee or entertainer shall be unclothed, clothed in less than opaque attire, or shall move or remove such attire, or allow such attire to be moved or removed so as to expose to view any portion of the breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, except upon a stage as defined in SMC Section 6.270.100 B4 ((at least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from the nearest patron)).

2. No employee or entertainer shall perform acts of or acts which simulate:

a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;

b. The touching, caressing or fondling of the breasts, buttocks or genitals; or

c. The displaying of the pubic region, anus, vulva or genitals; except as provided for in subdivision 1 of this subsection.

3. No employee or entertainer mingling with members of the ((patrons)) public shall:

a. ((b)) Be unclothed or in less than opaque and complete attire, costume or clothing as described in subdivision 1 of this subsection; ((c))

b. Conduct any dance, performance or exhibition unless such dance, performance or exhibition is performed at a distance of at least four (4) feet from the nearest member of the public; or

c. Conduct any dance, performance or exhibition in any area described in SMC Section 6.270.100 B3.

4. No employee or entertainer shall knowingly:

a. Touch, caress or fondle the breast, buttocks, anus, genitals or pubic region of another person; or

b. Permit the touching, caressing or fondling of his or her own breasts, buttocks, anus, genitals or pubic region by another person; or

c. Permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus, genitals or pubic region of another person.

5. No manager or operator shall knowingly permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus, genitals or pubic region of another person.

6. No employee or entertainer shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva or genitals, anus, buttocks, or any portion of the pubic region.

7. No employee or entertainer shall use artificial devices or inanimate objects to depict any of the prohibited activities described in this subsection.

8. No entertainer of any adult entertainment premises shall be visible from any public place during the hours of his or her employment, or apparent hours of his or her employment, on the premises.

9. No entertainer shall solicit, demand or receive any payment or gratuity from any (patron) member of the public for any act prohibited by this chapter.

10. No entertainer shall demand or collect any payment or gratuity from any (patron) member of the public for entertainment before its completion. No entertainer shall accept any form of gratuity offered directly to the entertainer by any member of the public. Any gratuity offered to any entertainer must be placed into a receptacle for receipt of gratuities provided by the adult entertainment establishment or offered through a manager on duty on the premises.

11. ~~((A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows: THIS ADULT ENTERTAINMENT ESTABLISHMENT IS REGULATED BY THE CITY OF SEATTLE. ENTERTAINERS ARE:))~~

a. Not permitted to engage in any type of sexual conduct;

b. No employee or entertainer shall be unclothed, clothed in less than opaque attire, or shall move or remove such attire, or allow such attire to be moved or removed so as to expose to view any portion of the breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, except upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest patron.

c. Not permitted to demand or collect any payment or gratuity from any patron for entertainment before its completion.)

~~((12.))~~ No manager or operator shall knowingly (or recklessly) permit or allow any employee or entertainer to violate any provision of this chapter.

B. At any adult entertainment premises, the following are required:

1. Neither the performance nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any portion of the breasts below the top of the areola or any portion of the pubic hair, buttocks, genitals and/or anus may be visible outside of the adult entertainment premises.

2. Sufficient lighting shall be provided ((tm)) and equally distributed throughout ((about)) the parts of the premises which are open to and used by the public so that all objects are plainly visible at all times. A minimum lighting level of thirty (30) lux horizontal, measured at thirty (30) inches from the floor and on ten (10) foot centers, is hereby established for all parts of the premises which are open to and used by the public.

3. No entertainment shall be provided in any area((s)) from which any other person may be prevented from entering, whether by a locking door or in any other manner and no entertainment shall be provided in any area which is enclosed or partially enclosed by interior walls, dividers, barricades, curtains or other means or in any area in which the dance, performance or exhibition is not clearly visible from all public areas inside the adult entertainment premises.

4. A stage, for any performance described in SMC Section 6.270.100 A1. Such stage shall be at least eighteen (18) inches in elevation above the level of the patron seating areas and shall be separated by a distance of at least six (6) feet from all areas of the premises to which the members of the public have access. A continuous railing, at least three (3) feet in height and located at least six (6) feet from all points of the stage, shall separate the stage from seating areas for members of the public.

5. The stage must be visible immediately upon entering the premises seating area, and, at all times, be visible to a manager. Visibility shall not be blocked or obstructed by a door, curtain, drape or any other obstruction.

6. A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

THIS ADULT ENTERTAINMENT ESTABLISHMENT IS REGULATED BY THE CITY OF SEATTLE.

a. Entertainers are not permitted to engage in any type of sexual conduct;

b. No employee or entertainer shall be unclothed, clothed in less than opaque attire, or shall move or remove such attire, or allow such attire to be moved or removed so as to expose to view any portion of the breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, except upon a stage at least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from the nearest member of the public.

c. Entertainers are not permitted to demand or collect any payment or gratuity from any member of the public for entertainment before its completion.

d. Entertainers are not permitted to accept any form of gratuity directly from a member of the public. Any gratuity offered to any entertainer must be placed into a receptacle for receipt of gratuities provided by the adult entertainment establishment or offered through a manager on duty on the premises.

e. Entertainers mingling with the public may not conduct any dance, performance or exhibition unless such dance, performance or exhibition is performed at a distance of at least four (4) feet from the nearest member of the public.

7. Each adult entertainment premises licensee and each adult entertainment manager shall have a duty to ensure that all standards of conduct and facilities requirements set forth in this section and all other requirements of this chapter regarding the operation of adult entertainment premises are complied with at all times.

8. Each adult entertainment premises licensee shall conspicuously display and enforce a standard of conduct applicable to members of the public while they are on the premises. The Director shall promulgate implementing regulations, including required content of the standard of conduct, required content and method of the display, and the required manner of enforcement of the standard of conduct by adult entertainment premises licensees.

C. This chapter shall not be construed to prohibit protected expression, such as:

1. Plays, operas, musicals, or other dramatic works that are not obscene;

2. Classes, seminars and lectures held for serious scientific or educational purposes that are not obscene; or

3. Exhibitions, performances, expressions or dances that are not obscene.

D. For purposes of this chapter, an activity is "obscene" if:

1. Taken as a whole by an average person applying contemporary community standards the activity appeals to a prurient interest in sex;

2. The activity depicts patently offensive representations, as measured against community standards, of:

a. Ultimate sexual acts, normal or perverted, actual or simulated, or

b. Masturbation, fellatio, cunnilingus, bestiality, excretory functions, or lewd exhibition of the genitals or genital area; or violent or destructive sexual acts, including but not limited to human or animal mutilation, dismemberment, rape or torture; and

3. The activity taken as a whole lacks serious literary, artistic, political, or scientific value.

E. No manager, owner, entertainer or employee shall operate or maintain any warning procedures or device, of any nature or kind, for the purpose of warning any other person that police officers or City health, fire, licensing or building inspectors are approaching or have entered the adult entertainment premises.

~~((F. It is unlawful for any person to violate any of the provisions of this Section 6.270.100.))~~

Section 10. A new section is added to the Seattle Municipal Code as follows:

6.270.115 Unlawful Acts

It is unlawful for any person to violate any of the provisions of this chapter.

Section 11. Section 6.270.120 of the Seattle Municipal Code is amended as follows:

6.270.120 Manager on premises.

A. A licensed manager shall be on duty at an adult entertainment premises during the adult entertainment premises' hours of operation. The name of the manager on duty shall be prominently posted during business hours.

B. Any adult entertainment premises found to be operating without a manager on duty shall be immediately closed until a licensed manager arrives for duty at the adult entertainment premises pursuant to Section 6.270.120 A.

C. The manager shall verify that each entertainer performing while the manager is on duty possesses a current and valid entertainer's license, as required by this chapter. The manager shall verify that such adult entertainment licensee is posted in the manner required by Section 6.270.110.

D. A manager shall not perform as an entertainer on days during which he or she acts as manager on duty at an adult entertainment establishment.

Section 12. A new section is added to Chapter 6.270 of the Seattle Municipal Code as follows:

6.270.125 Permission to Inspect.

An adult entertainment premises licensee and its manager shall permit the Director and personnel from the Seattle Police Department to conduct announced inspections, during hours that the adult entertainment premises is open to the public, of all exterior and interior areas of the premises open to and used by members of the public and of all books and records required to be kept under this chapter. The purpose of such inspections is to determine whether the premises are being operated in compliance with the provisions of this chapter.

Section 13. A new section is added to Chapter 6.270 of the Seattle Municipal Code as follows:

SMC 6.270.135 Nonpublic Areas.

No member of the public shall be permitted to enter into any of the nonpublic portions of the adult entertainment establishment, which shall include but are not limited to: the dressing rooms of entertainers or other rooms provided for the benefit of employees, and the kitchen and storage areas; except that persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the premises or equipment on the premises may be permitted into nonpublic areas to the extent required to perform their job duties.

Section 14. Section 6.270.150 of the Seattle Municipal Code is amended as follows:

6.270.150 Suspension or revocation of ((premises)) license.

~~((In addition to the reasons set forth in SMC Section 6.202.200 as now or hereafter amended, an adult entertainment premises license may be suspended or revoked upon a finding that:))~~

A. The premises licensee permitted or authorized his or her employees, agents, entertainers or managers to violate any of the provisions of this chapter; or

B. The adult entertainment manager permitted or authorized any violation of any of the provisions of this chapter by any person.)

A. The Director may suspend or revoke a license issued under this chapter in accordance with the following:

1. If a licensee obtained or renewed a license through a false, misleading or fraudulent omission or statement of material fact either on the application for the license or the license renewal, the license shall be revoked;

2. If a licensee violates any other provision of this chapter, the license shall be:

a. Suspended for thirty (30) days for a first violation.

b. Suspended for ninety (90) days for a second violation within any twenty-four (24) month period.

c. Revoked for a third violation within any twenty-four (24) month period.

3. Time spent serving a suspension is not counted in determining the twenty-four (24) month period referred to in subsection A2 of this section.

4. For an adult entertainment premises licensee, a violation for which an adult entertainment premises license may be suspended or revoked includes a violation of this chapter by a manager, employee, agent, entertainer or any other person occurring on the premises when the adult entertainment premises licensee knew or should have known of the violation.

5. For an adult entertainment manager licensee, a violation for which an adult entertainment manager's license may be suspended or revoked includes a violation of this chapter by an adult entertainer or other person when the adult entertainment manager knew or should have known of the violation.

6. If a licensee is convicted of committing a crime or offense involving one of the following occurring on the premises of an adult entertainment establishment, the licensee shall be revoked:

a. A violation of RCW 9A.88.030, 9A.88.070, 9A.88.080 or 9A.88.090;

b. A violation of SMC Sections 12A.10.020 or 12A.10.050;

c. A transaction involving a controlled substance as defined in chapter 69.50 RCW; or

d. A violation of chapter 9A.44 RCW, Sex Offenses or chapter 9.68A RCW, Sexual Exploitation of Children.

B. For an adult entertainment premises licensee, a conviction for which the adult entertainment premises license may be revoked includes the conviction of a manager, employee, agent or entertainer for a crime or offense listed in subsection A6 of this section occurring on the premises of the adult entertainment establishment when the adult entertainment premises licensee knew of or should have known of the crime or offense.

C. For an adult entertainment manager licensee, a conviction for which the adult entertainment manager's license may be revoked includes the conviction of an employee or entertainer for a crime or offense listed in subsection A6 of this section occurring on the premises of the adult entertainment establishment when the adult entertainment manager licensee knew of or should have known of the crime or offense.

D. A licensee whose license has been revoked is not eligible to reapply for any license authorized by this chapter for one year following the date the decision to revoke is final.

E. On receipt of a notice of suspension or revocation, the license holder shall promptly deliver the license to the Director unless an appeal is pending under this chapter.

Upon expiration of a license suspension, the Director shall return the license to the license holder.

F. For purposes of this section, a person "should have known" of a crime or offense or violation of this chapter, when the person has information which would lead a reasonable person to believe that a crime or offense or violation of this chapter is occurring or will occur.

G. If the Director determines that a condition exists on an adult entertainment premises which constitutes a threat of immediate serious injury or damage to a person or property, the Director may immediately suspend an adult entertainment premises license. The Director shall issue a notice setting forth the basis for the action and the facts that constitute a threat of immediate serious injury or damage to a person or property.

Section 15. A new section is added to Chapter 6.270 if the Seattle Municipal Code as follows:

6.270.170 Public Nuisance.

An adult entertainment premises operated, conducted or maintained in violation of this chapter or any law of the City of Seattle or the State of Washington shall be, and the same is, declared to be unlawful and a public nuisance. The City Attorney may, in addition to, or in lieu of, any other remedies set forth in this chapter, commence an action to enjoin, remove or abate such nuisance and may take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person from operating, conducting or maintaining an adult entertainment premises contrary to the provisions of this chapter.

Section 16. Section 6.202.280 of the Seattle Municipal Code is amended as follows:

6.202.280 Continuation of business while complaint hearing decision pending

A. Except in the case of summary suspension or revocation, whenever a timely request for hearing on a complaint is filed, a licensee or an applicant for license renewal may engage in the activity for which the license is required, pending decision by the Hearing Examiner. An applicant not licensed in the preceding license year may not engage in the activity for which the license is required pending decision by the Hearing Examiner. Nothing in this section is intended to authorize activities that do not comply with other requirements of the Seattle Municipal Code or other applicable law.

B. If the Department denies an adult entertainment license governed by SMC Chapter 6.270, and if the license applicant files a notice of appeal with the Hearing Examiner, the Director shall immediately issue the licensee applicant a temporary license. The temporary license shall authorize the licensee applicant to operate an adult entertainment establishment or perform as a manager or entertainer, in the same manner as if the license had been granted, pending the Hearing Examiner's decision.

1. If the Hearing Examiner affirms the Director's license denial, the temporary license shall remain in effect pending a motion for reconsideration before the Hearing Examiner and, in addition (a) if the license applicant does not timely file for judicial review, then only until the expiration of the time allowed to file an application for a writ of review under Chapter 7.16 RCW; or (b) if the license applicant does timely file an application for a writ of review, then only until the court either issues a writ or denies the writ application.

2. If the Hearing Examiner dismisses the adult entertainment license denial with prejudice, the Department shall immediately issue an adult entertainment license.

3. If the Hearing Examiner dismisses the adult entertainment denial without prejudice, the temporary license shall remain in effect for five (5) additional business days, at the end of which time the Department must either reissue a denial or issue an adult entertainment license. If the Director reissues the denial, then the temporary license will continue in effect according to the procedures set forth in subsection B of this section.

4. Notwithstanding SMC Section 6.202.210, if a license applicant is issued a temporary license, the license applicant shall pay the fee charged for an adult entertainment license under SMC Section 6.270.060 at the time the applicant receives the temporary license. If the temporary license issued under this subsection is still in effect at the end of a calendar year, then the licensee applicant must pay the fee charged for an adult entertainment license under SMC Section 6.270.060 for the next calendar year.

Section 17. Effective Dates for Specified Provisions.

A. The following provisions of Section 2 of this ordinance shall take effect as provided in this section -- provisions that would amend SMC Section 6.270.100 by:

1. adding new Subsections A.3.b and A.3.c;
2. amending Subsection A.10;
3. amending Subsection B.2;
4. amending Subsection B.3;
5. adding new Subsections B.4 and B.5;
6. adding new Subsections B.6.d and B.6.e; and,
7. adding a new Subsection B.8.

B. The provisions identified above shall take effect 150 days after the effective date of this ordinance, or 30 days after the Chair of the City Council Urban Development and Planning Committee certifies to the City Clerk that the Executive has transmitted to the City Council proposed legislation to amend the Land Use Code provisions regarding adult entertainment premises, whichever is later. In order to be so certified, such proposed legislation shall include an identification of zones in which the use is permitted, and location criteria including provisions such as minimum proposed distances between licensed adult entertainment premises and single family residential zones, schools, churches, and other licensed adult entertainment premises.

Section 18. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 3rd day of October, 2005, and signed by me in open session in authentication of its passage this 3rd day of October, 2005.

Jan Drago

President of the City Council

Approved by me this 10th day of October, 2005.

Gregory J. Nickels, Mayor

Filed by me this 10th day of October, 2005.

(Seal) Judith Pippin

City Clerk

Publication ordered by JUDITH PIPPIN, City Clerk

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