

# ORIGINAL

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## CITY OF WOODINVILLE, WASHINGTON

### ORDINANCE NO. 99

**AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, RELATING TO THE REGULATION OF SEXUALLY-ORIENTED BUSINESSES AS DEFINED HEREIN, PROVIDING FOR THE LICENSING OF SUCH BUSINESSES, FURTHER PROVIDING STANDARDS OF CONDUCT AND OPERATION, INCLUDING THE REGULATION OF CERTAIN PHYSICAL FEATURES OF ADULT CABARETS, AND ESTABLISHING MISDEMEANOR OFFENSES AND PENALTIES FOR THE VIOLATION OF SUCH REGULATIONS, AS MORE PARTICULARLY SET FORTH HEREIN.**

**WHEREAS**, the City of Woodinville is a small residential community and a non-charter code city under the constitution and statutes of the State of Washington, its population is approximately 9,407, and is essentially a family-oriented, residential community with boundaries of approximately 5.64 square miles and within its boundaries, has approximately 3,968 dwelling units with approximately 72% of the zoning as residential, 8% commercial and 20% industrial and presently has greater than 29.1% of its population under the age of 18 years, and with attendant community standards; and

**WHEREAS**, the City Council adopted Ordinance 74, establishing a moratorium on sexually-oriented businesses with the intent to review, and possibly revise, existing regulations, specifically based on the secondary effects of such businesses; and

**WHEREAS**, on January 24, 1994, the City Council held a Public Hearing which supported the continuance of the moratorium for a period of one year; and

**WHEREAS**, on April 6, 1994, the Planning Commission held its first meeting as prescribed in a work plan mandated by Ordinance 74. Testimony from the King County Police Department, as the City's contracted police provider, was received; and

**WHEREAS**, the Planning Commission held a Public Hearing on May 21, 1994, to receive comments from the business community, religious community, and community leaders; and held a second Public Hearing on July 6, 1994, to receive any additional comment; and

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**WHEREAS**, the City takes notice of and specifically relies upon the experiences of and studies utilized by other cities and counties in combating the specific adverse impacts of sexually-oriented businesses including nude and semi-nude dancing; and

**WHEREAS**, the City of Woodinville City Council finds that sexually-oriented businesses have historically led to an increase in prostitution, sexually transmitted disease, drug and alcohol offenses and other criminal activity; and

**WHEREAS**, the City finds a compelling need to protect all citizens, but especially minors from criminal and unlawful activities and impacts associated with sexually oriented businesses; and

**WHEREAS**, sexually-oriented businesses sometimes are fronts for or operated by persons associated with organized criminal activities and the need to scrutinize such businesses and their operators is thereby enhanced; and

**WHEREAS**, the law enforcement resources available for responding to problems associated with or created by sexually-oriented businesses are limited and are best conserved by regulating and licensing sexually-oriented businesses and those associated with them; and

**WHEREAS**, based on public testimony and other information presented on this subject to the Planning Commission and the City Council, the Council has determined that there are deleterious secondary effects of sexually-oriented businesses that can be minimized through the adoption of specific licensing and premises operational requirements that are narrowly tailored to alleviate those harmful effects; and

**WHEREAS**, based upon the information gathered by the Planning Commission, its recommendations to the Council, studies testimonial information presented to the City Council, the City Council finds the adoption of licensing and operational regulations on sexually-oriented business land uses to be necessary to minimize contact with children, and thus minimize contact with churches, parks, schools, libraries, day care facilities, community youth centers and residential areas for the preservation and protection of the quality of life and neighborhoods, commercial districts and for the health, safety and welfare of its citizens; and

**WHEREAS**, the activities defined herein are detrimental to the public health, safety, morals, and general welfare of the citizens of Woodinville, and therefore such activities must be regulated as provided herein; and

**WHEREAS**, there are sufficient important and substantial government interests to provide a constitutional basis for reasonable regulation of time, place, and manner under which sexually-oriented businesses can operate; and

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**WHEREAS**, regulation of sexually-oriented business through permitting and or/licensing is necessary because, in the absence of such regulation, significant criminal activity has historically and regularly occurred. The history of criminal activity in sexually-oriented business has included prostitution, narcotics and liquor law violations, breaches of the peace, and the presence within the industry of organized crime through individuals with hidden ownership interests and outstanding arrest warrants; and

**WHEREAS**, it is necessary to have a licensed manager on the premises of sexually-oriented businesses so there will, at all necessary times, be an individual responsible for the overall operation of the establishment, including the actions of patrons, entertainers and other employees; and

**WHEREAS**, the evidence supporting the need to protect minors from the criminal and other unlawful activities associated with the operation of sexually-oriented businesses is compelling. The provisions of this ordinance are necessary to ensure that sexually-oriented uses in Woodinville are conducted a reasonable distance away from places where minors regularly gather, often in large numbers; and

**WHEREAS**, it is not the intent of this ordinance to unreasonably suppress any speech activities protected by the First Amendment or Article I, Section 5 of the Washington State Constitution, but to enact regulations which address the secondary effects of sexually-oriented businesses, as well as the health problems associated with such businesses; and

**WHEREAS**, the concern over sexually-transmitted diseases is a legitimate health concern of the City which demands reasonable regulation of sexually-oriented businesses in order to protect the health and well-being of the citizens; and

**WHEREAS**, the City Council held a public hearing on September 12, 1994 to accept public testimony relating to the subject matter of this ordinance.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1. Purpose And Intent:**

It is the purpose of this ordinance to regulate sexually-oriented businesses and related activities to promote health, safety, morals, and general welfare of the citizens of the City of Woodinville, and to establish reasonable and uniform regulations to prevent the deleterious location of sexually-oriented businesses within the City. It is not the intent of the City that it should be the purpose or effect of this ordinance to impose a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is not the intent of the City that it should be the effect of this ordinance to restrict or deny access

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by adults to sexually-oriented materials protected by the State or Federal Constitutions, or to deny access by the distributors and exhibitors of sexually-oriented material to their intended market. Neither is it the intent of the City that it should be the purpose or effect of this ordinance to condone or legitimize the distribution of obscene materials.

## Section 2. Findings of Fact:

Based upon a wide range of evidence presented to the Woodinville City Council and to other jurisdictions, including but not limited to the testimony of law enforcement officers and members of public, and on other evidence, information, publications, articles, studies, documents, case law and material submitted to and reviewed and considered by the City Council and staff, the councils of other cities within the region and in other jurisdictions, non-profit organizations and other legislative bodies, the City Council makes the following findings:

A. Certain conduct occurring on premises offering sexually-oriented business creates secondary impacts that are 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 sexually-oriented business industry through permitting and/or licensing 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 sexually-oriented 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. The evidence supporting the need to protect minors and families from the criminal and other unlawful activities associated with the operation of sexually-oriented businesses is compelling. The provisions of this ordinance are necessary to ensure that sexually-oriented uses in Woodinville are conducted a reasonable distance away from places where minors regularly gather, often in large numbers.

E. It is necessary to have a licensed manager on the premises of sexually-oriented businesses at such times as such establishments are offering sexually-oriented business so there will, at all necessary times, be an individual responsible for the overall operation of the establishment, including the actions of patrons, entertainers and other employees.

F. The license fees required herein are nominal fees imposed as necessary cost recoupment measures designed to help defray the substantial expenses incurred by the City in regulating the sexually-oriented businesses, and in increased police costs in enforcement.

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G. Businesses providing sexually-oriented businesses are increasingly associated with ongoing prostitution, disruptive conduct and other criminal activity. Such businesses are currently not subject to effective regulation and constitute an immediate threat to the public peace, health and safety. The hours of operation of such businesses have a significant impact on the occurrence of illegal drug transactions, and other criminal activities.

H. Due to the information presented regarding the connection of prostitution with sexually-oriented businesses, there is concern over sexually-transmitted diseases which is a legitimate health concern of the City and thus requires regulation of sexually-oriented businesses in order to protect the health, safety and well-being of the public.

I. Many cities, including Seattle and Tacoma, have experienced negative secondary impacts from sexually-oriented business land uses. The skid row effect is one of these secondary impacts and is evident in certain parts of Seattle. Such an effect would be significantly magnified in Woodinville due to the difference in size and characteristics of the city.

J. The City of Woodinville may rely on the experiences and studies of other cities, counties and organizations in assessing the need for regulation of sexually-oriented business use, operations and licensing.

K. The City takes notice of studies and experiences of other cities and counties in combating the specific adverse impacts of sexually-oriented businesses.

L. Regulation of sexually-oriented businesses should be developed to prevent deterioration and/or degradation of the vitality of the community before the problem exists, rather than in response to an existing problem.

M. Increased levels of criminal activities occur in the vicinity of sexually-oriented businesses. Additionally, hidden ownership interests for the purpose of skimming profits, avoiding payment of taxes, and racketeering have historically occurred in sexually oriented businesses, in the absence of regulations.

N. The City Council therefore finds that the protection and the preservation of the public health, safety and welfare requires establishment of this ordinance.

O. There are sufficient important and substantial government interests to provide a constitutional basis for reasonable regulation of time, place, and manner under which sexually-oriented businesses can operate.

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P. It is not the intent of this ordinance to unconstitutionally suppress any speech activities protected by the First Amendment of the United States Constitution or Article I, Section 5 of the Washington State Constitution but to enact content neutral ordinances which address the secondary effects of sexually-oriented businesses, as well as the health problems associated with such businesses.

Q. In a family community, sexually-oriented businesses are not uniformly compatible with community standards, as defined during the numerous public hearings.

R. The law enforcement resources available for responding to problems associated with or created by sexually-oriented businesses are limited and are best conserved by regulating and licensing sexually-oriented businesses and those associated with them.

S. In order to assure that all conditions, regulations, etc. are met, the City has established a reasonable time period for review of license applications.

### **Section 3. Definitions:**

For the purposes of this ordinance, certain terms and words are defined as follows:

A. "Sexually-oriented business" shall mean those businesses defined as follows:

1. Adult Arcade: "Adult Arcade" shall mean an establishment containing any individual viewing areas or booths, where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines are used to show films, motion pictures, video cassettes, slides, or other photographic reproduction of specified sexual activities or specified anatomical areas.

2. Adult Bookstore, Adult Novelty Store, Or Adult Video Store: "Adult bookstore", "adult novelty store", or "adult video store" shall mean a commercial establishment which has 30% or more of its inventory or floor space used for the sale or rental, for any form of consideration, any one or more of the following:

a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations or sexually oriented paraphernalia or novelty items, which are characterized by the depiction, description or reproduction of specified sexual activities or specified anatomical areas;  
or

b. An establishment may have other principal business purposes that do not involve the offering for sale or rental of materials depicting, describing or reproducing

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specified sexual activities or specified anatomical areas, and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store, or adult video store so long as 30% or more of its inventory or floor space is offering for sale or rental, for some form of consideration, the specified materials which depict or describe specified anatomical areas or specified sexual activities.

c. Video stores that sell and/or rent video tapes or other photographic reproductions and associated equipment shall come within this definition if 30% or more of the inventory or floor space includes the rental or sale of video tapes or other photographic reproductions or associated equipment which are characterized by the depiction, description or reproduction of specified sexual activities or specified anatomical areas.

3. Adult Cabaret: "Adult cabaret" shall mean a nightclub, bar, restaurant, or similar commercial establishment, whether or not alcoholic beverages are served, which features: 1) persons who appear semi-nude or nude; or 2) live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

4. Adult Motel: means a hotel, motel, or similar commercial establishment which:

a. Offers sleeping accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or

b. Offers a sleeping room for rent for a rental fee period of time that is less than twenty (20) hours; or

c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twenty (20) hours.

5. Adult Motion Picture Theater: "Adult motion picture theater" shall mean a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions characterized by the depiction or description of specified anatomical areas or specified sexual activities are shown for any form of consideration.

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6. Adult Theater: "Adult theater" shall mean a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, features persons who appear live in a semi-nude or nude state, or live performances which are characterized by the exposure of specified anatomical areas or specified sexual activities.

7. Escort Agency: "Escort agency" means a person or business association that furnishes, offers to furnish, or advertises to furnish escorts as its business purpose for a fee, tip, or other consideration. This shall not include any escort service offered by a charity or non-profit organization for medical assistance or assistance to the elderly or infirm.

8. Nude Or Semi-Nude Model Studio: "Nude or semi-nude model studio" shall mean any place where a person, who appears nude or semi-nude, or displays specified anatomical areas, is provided for money or any other form of consideration, to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

B. "Barker": "Barker" shall mean any person who is located at the entrance of or outside of a sexually oriented business, and attempts to solicit business for the same by using voice, or gestures.

C. City: "City" means the City of Woodinville, Washington.

D. Director: "Director" means the City Clerk/Treasurer, or designee.

E. Employee: "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 any sexually-oriented business of live entertainment, adult theater, or adult use establishments, whether or not such person is paid compensation by the operator of said business.

F. Entertainer: "Entertainer" means any person who provides sexually-oriented live entertainment in an adult cabaret or adult theater, whether or not they are an employee of the business and whether or not a fee is charged or accepted for such entertainment, and whether or not nude, semi-nude or clothed.

G. Manager: "Manager" means any person who manages, directs, administers, or is in charge of, the affairs and/or the conduct of a sexually oriented business.

H. Escort: "Escort" means a person who, provides services for an escort service as defined herein, who, for consideration, agrees or offers to act as a companion, guide, or date

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for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

I. Establishment: "Establishment" shall mean and include any of the following:

1. The opening or commencement of any sexually-oriented business as a new business; or
2. The conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented businesses defined herein; or
3. The addition of any of the sexually-oriented businesses defined herein to any other existing sexually-oriented business; or
4. The relocation of any such sexually-oriented business; or
5. An existing sexually-oriented business.

J. Nude Or State Of Nudity: "Nude or State of Nudity" shall mean the appearance or less than complete and opaque covering of the human anus, male genitals, female genitals, or the areola or nipple of the female breast.

K. Operator: "Operator" shall mean and include the owner, significant stockholder or significant owner of interest, permit holder, custodian, manager, operator, or person in charge of any permitted or licensed premises.

L. Permitted Or Licensed Premises: "Permitted and/or Licensed Premises" shall mean any premises that requires a license and/or permit and that is classified as a sexually-oriented business.

M. Permittee and/or Licensee: "Permittee and/or Licensee" shall mean a person in whose name a permit and/or license to operate a sexually-oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

N. Person: "Person" shall mean any individual, firm, joint venture, co-partnership, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver or any other group or combination acting as a unit.

O. Semi-Nude: "Semi-Nude" shall mean a state of dress in which clothing completely and opaquely covers no more than the genitals, pubic region, and areola and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

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P. Specified Anatomical Areas: "Specified anatomical areas" shall mean and include any of the following:

1. Less than completely and opaquely covered human genitals, pubic region, anus, or areola of the female breasts or any artificial depiction of the same; or
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Q. Specified Criminal Activities: "Specified criminal activities" shall mean any conviction for acts which are sexual crimes against children, sexual abuse, rape, or distribution of obscenity or erotic material to minors, prostitution, pandering, or racketeering.

R. Specified Sexual Activity: "Specified sexual activity" shall mean and include any of the following:

1. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts; or
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
3. Masturbation, actual or simulated; or
4. Human genitals or artificial depictions of the same in a state of sexual stimulation, arousal or tumescence; or
5. Excretory functions as part of or in connection with any of the activities set forth in subdivisions 1 through 4 of this subsection.

S. Sexually-oriented Live Entertainment: "Sexually-oriented live entertainment" means a live performance which is characterized by the performer's exposure of specified anatomical areas or performance or specified sexual activities.

T. Obscenity shall mean the definition of lewd material provided by RCW 7.48.050, including any matter:

1. which the average person applying contemporary community standards would find when considered as a whole, appeals to the prurient interests in sex; or
2. which explicitly depicts or describes patently-offensive representations or descriptions of:

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- a. ultimate sexual acts, normal or perverted, actual or simulated; or
  - b. masturbation, fellatio, cunnilingus, bestiality, excretory functions or lewd exhibitions of the genital or genital areas; or
  - c. violent or destructive sexual acts, including, but not limited to, human and or animal mutilation, dismemberment, rape and or torture; or
  - d. has a dominant theme which appeals to the prurient interests of minors and sex; which is patently offensive because it affronts contemporary community standards relating the description of representation of sexual matters or sadomasochistic abuse; and
3. which when considered as a whole lacks serious, literary, artistic, political or scientific value.

U. Transfer of Ownership or Control of a Sexually-oriented Business: "Transfer of Ownership or Control" of a sexually-oriented business shall mean and include any of the following:

1. The sale, lease, or sublease of the business; or
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

**Section 4. Prohibition:** For the reasons stated in the recitals and Section 1 of this ordinance, a person shall not use any property or premises for a sexually-oriented business within the City of Woodinville, except as permitted in this ordinance and Ordinance 101.

**Section 5. Regulated Uses:** All sexually-oriented businesses are subject to the provisions of Section 4 above and the regulations contained in this ordinance.

**Section 6. Sexually-oriented Business Permit Required.**

A. No sexually-oriented business shall be permitted to operate without a valid sexually-oriented business permit, issued by the City for the particular type of business. It shall be

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unlawful and a person commits a misdemeanor if he/she operates, knowingly allows or causes to be operated a sexually-oriented business without said permit.

B. The City Clerk/Treasurer, or his/her designee, is responsible for granting, denying, revoking, renewing, suspending, and canceling sexually-oriented business permits and related licenses. The Building Official and City Planner or his/her designee are responsible for ascertaining whether a proposed sexually-oriented business for which a permit and/or license is being applied for complies with all requirements enumerated herein and all other applicable zoning laws and/or regulations now in effect or as amended or enacted subsequent to the effective date of this ordinance.

C. An application for a sexually-oriented business permit shall be made on a form provided by the City. Each person desiring to operate a sexually-oriented business shall file with the City Clerk/Treasurer an application supplied by the City.

D. The completed application shall contain the following information and shall be accompanied by the following documents:

1. If the applicant is:

a. An individual/sole proprietor, the individual/owner shall state his/her legal name and any aliases, stage names, or previous names, date of birth, social security number and submit satisfactory proof that he/she is eighteen (18) years of age or older.

b. A partnership, the partnership shall state its complete name, and the legal names of all partners, including their dates of birth, social security numbers, and submit satisfactory proof that each is eighteen (18) years of age and whether the partnership is general or limited, and a copy of the partnership agreement, if any.

c. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of the State of Washington, the legal names, dates of birth, social security numbers, proof that each is eighteen (18) years of age or older and the capacity of all officers, directors and principal stockholders, the name of the registered corporate agent, and the address of the registered office for service of process.

d. As a part of the application process, each officer, director, or principal stockholder, as defined above, shall provide the City Clerk/Treasurer with an affidavit attesting to their identity and relationship to the corporation. Principal stockholder shall mean those persons who own ten percent (10%) or greater interest in the sexually-oriented business.

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2. Whether the applicant or any other individuals listed pursuant to Subsection D1, (a), (b) and (c) above within a four (4) year period immediately preceding the date of the application has been convicted of a specified criminal activity and, if so, the specified criminal act involved, the date of conviction and the place of conviction.

3. Whether the applicant or any of the other individuals listed pursuant to this Section has, within the last four (4) years, had a previous permit or license under this ordinance or other similar ordinances from another city or county denied, suspended, or revoked, including the name and location of the sexually-oriented business for which the permit or license was denied, suspended, or revoked, the entity denying the same, as well as the date of the denial, suspension, or revocation.

4. Whether the applicant or any other entity listed pursuant to this Section holds any other permits and/or licenses under this ordinance, et. seq. or other similar sexually-oriented business license from another city or county and, if so, the names and locations of such other permitted businesses.

5. The single classification of permit for which the applicant is filing.

6. The location of the proposed sexually-oriented business, including a legal description of the property, street address, and telephone number(s), if any.

7. The applicant's mailing address and residential address.

8. Two (2) two-inch by two-inch black and white photographs of the applicant, including any corporate applicants, taken within six (6) months of the date of the application, showing only the full face of the same. The photographs shall be provided at the applicant's expense. The license, when issued, shall have affixed to it one such photograph of the applicant.

9. The applicant or each corporate applicant's driver's license number, Social Security Number, and or his/her state or federally issued tax identification number.

10. Each application shall be accompanied by a complete set of fingerprints of each person required to be a party to the application, including all corporate applicants as defined above, utilizing fingerprint forms as prescribed by the Chief of Police or his/her designee.

11. In the case of all sexually-oriented businesses, a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram must be professionally prepared and accepted by the

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City, and it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

12. Applicants for a permit and/or license under this ordinance shall have a continuing duty to promptly supplement application information required in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change by supplementing the application on file with the City Clerk/Treasurer or his/her designee, shall be grounds for suspension of a permit and/or license.

13. In the event the City Clerk/Treasurer or his/her designee determines or learns at any time that the applicant has improperly completed the application for a proposed sexually-oriented business permit or license, he/she shall promptly notify the applicant of such fact and allow the applicant ten (10) days to properly complete the application. (The time period for granting or denying a permit shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application).

14. The applicant must be qualified according to the provisions of this Section, must have a current City business license, and the premises must be inspected and found to be in compliance with health, fire, and building codes of the City.

15. The applicant shall be required to pay a preliminary non-refundable processing fee established by resolution at the time of filing an application under this Section. Note: This is a processing fee. License fees shall also be required in the event the application is approved.

16. The fact that a person possesses other types of State or City permits and/or licenses does not exempt him/her from the requirement of obtaining a sexually-oriented business permit.

17. The application form for licenses and permits issued under this ordinance shall contain a provision providing that under penalty of perjury the applicant verifies that the information contained therein is true to the best of his/her knowledge.

## **Section 7. Investigation And Application:**

A. Upon receipt of an application properly filed with the City Clerk/Treasurer, and upon payment of the non-refundable processing fee, the City Clerk/Treasurer or his/her designee shall immediately stamp the application as received and shall immediately thereafter send photocopies of the application to other City departments or other agencies responsible for enforcement of health, fire, and building codes and laws. Each department or agency shall promptly conduct an investigation of the application and the proposed sexually-oriented

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business. Said investigation shall be completed within twenty (20) working days of receipt of the application by the City Clerk/Treasurer or his/her designee, unless circumstances support extending the same. If so, the City shall inform the applicant of the same and why. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its recommendation as to approval or disapproval of the application, date it, sign it, and in the event it recommends disapproval, state the specific reasons therefor, citing applicable laws or regulations.

B. A department or agency shall recommend disapproval of an application if it finds that the proposed sexually-oriented business will be in violation of any provision of any statute, code, ordinance, regulation, or other law in effect in the City, or if the applicant does not meet the conditions as specified in this ordinance. After its indication of approval or disapproval, each department or agency shall immediately return the photocopy of the application to the City Clerk/Treasurer or his/her designee.

## **Section 8. Issuance Of Permit:**

A. The City Clerk/Treasurer or his/her designee shall grant or deny an application for a permit within thirty (30) days from the date of its proper filing unless the City or applicant establishes a good reason for an extension.

B. Grant of Application for Permit:

1. The City Clerk/Treasurer or his/her designee shall grant the application unless one or more of the criteria set forth in Subsection C below (Denial of Application for Permit) is present.
2. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually-oriented business. The permit shall be posted in a conspicuous place, at or near the entrance to the sexually-oriented business so that it can be easily read at any time. It shall be valid until the end of the year.

C. Denial of Application for Permit: The City Clerk/Treasurer or his/her designee shall deny the application for any of the following reasons:

1. An applicant is under eighteen (18) years of age or will be employing a person under eighteen (18) years of age.
2. An applicant is overdue on his/her payment to the City of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to a sexually-oriented business.

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3. An applicant has failed to provide information required by this Section or the application for the issuance of the permit, or has falsely answered a question or request for information on the application form.
4. The applicant has failed to comply with any provision or requirement of this ordinance.
5. The applicant has failed to comply with any City codes or other state or federal regulations or court order.
6. The applicant has been convicted, forfeited bail or other adverse finding for a specified criminal activity within the four years prior to the application date.

## **Section 9. Licenses Required For Sexually-oriented Businesses -Fees:**

- A. No sexually-oriented business shall be operated or maintained in the City of Woodinville unless the owner or operator has obtained a sexually-oriented business permit as set forth above, and the applicable licenses from the City Clerk/Treasurer. For adult cabarets the required license shall be the adult cabaret license set forth in subsection B below. It is unlawful for any entertainer, employee, or operator to knowingly work in or about or knowingly perform any service directly related to the operation of an unlicensed adult cabaret business. Any adult cabaret must meet all of the requirements for a sexually-oriented business license as set forth above.
- B. The annual fee for an adult cabaret business license shall be established in resolution. The amount shall be used for the cost of administration and enforcement of this ordinance.
- C. The annual license fee for all other sexually-oriented businesses described in Section B above shall be established by resolution. The amount shall be used for the cost of administration and enforcement of this ordinance.
- D. The above-referenced licenses expire annually on December 31 and must be renewed by January 1.
- E. The applicant must be 18 years of age or older.

## **Section 10. License For Managers And Entertainers Of Sexually-oriented Business Required - Fee:**

- A. No person shall work as a manager or entertainer at any sexually-oriented business without having first obtained the appropriate entertainer's or manager's license from the City

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Clerk/Treasurer. Each such applicant shall not be required to obtain a sexually-oriented business permit, but shall complete an application containing the information identified in Section 6D above and the same procedures shall be followed as set forth in Sections 5, 6, 7 and 8. A non-refundable processing fee established by resolution shall accompany the application.

B. The annual fee for such a license shall be established by resolution. The amount shall be used for the cost of administration and enforcement of this ordinance.

C. This license expires annually on December 31 and must be renewed by January 1.

D. The applicant must be 18 years of age or older and not qualify for denial as set out in Section 8 (B) and (C) herein.

**Section 11. Licenses For Models And Escorts:** No person shall work as a model at a nude or semi-nude model studio or as an escort as defined herein without having first obtained a model or escort license from the City Clerk/Treasurer.

A. Each such applicant shall not be required to obtain a sexually-oriented business permit, but shall complete an application containing the information identified in Section 6D above and the same procedures shall be followed as set forth in Sections 5, 6, 7 and 8. A non-refundable processing fee established in resolution shall accompany the application.

B. The annual fee for such a license shall be established in resolution. The amount shall be used for the cost of administration and enforcement of this ordinance.

C. This license expires annually on December 31 and must be renewed by January 1.

D. The applicant must be 18 years of age or older and not qualify for denial pursuant to Section 8 herein.

**Section 12. Due Date For License Fees:** All licenses required in this ordinance must be issued and the applicable fees paid to the City Clerk/Treasurer at least fourteen (14) calendar days before commencing work at a sexually-oriented business, and on an annual basis as described above. The sexually-oriented business permit required by Section 6 above must only be renewed based on changed circumstances as set forth in Section 6 (D) (12) above. The fee structure for all fees and fines in this ordinance shall be reviewed annually after a renewal has been applied for, to assure that the fees accurately reflect the cost of enforcement and administration of this ordinance.

**Section 13. Manager On Premises:**

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- A. A licensed manager shall be on duty at all sexually-oriented business premises at all times, whether the business provides live or other performances.
- B. The licensed manager on duty shall not be an entertainer.
- C. It shall be the responsibility of the manager to verify that any entertainer who works or appears within the premises possesses a current and valid entertainer's license posted in the manner required by this ordinance.
- D. The manager shall not knowingly allow a violation of this code to continue or exist at the facility.

**Section 14. License Nontransferable:** No license or permit issued pursuant to this ordinance shall be transferable.

**Section 15. License - Posting And Display:**

- A. Every entertainer, manager, escort or model shall post his/her license in his/her work area so that it is readily available for public inspection.
- B. Every person, corporation, partnership, or association licensed under this ordinance shall display its license in a prominent place within the establishment. In the case of adult cabarets, the name of the manager on duty shall be prominently posted during business hours.

**Section 16. Specifications - Adult Cabarets and Adult Theaters:**

- A. Separation of Sexually-oriented Live Entertainment Performance Area: The portion of adult cabaret, adult theater or any other premises in which sexually-oriented business live entertainment is performed shall be a stage or platform at least twenty-four (24) 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 patrons have access. A continuous railing at least three (3) feet in height and located at least six (6) feet from all points of the sexually-oriented live entertainment performance area shall separate the performance area and the patron areas.
- B. Lighting: Sufficient lighting shall be provided and equally distributed in and about the parts of the premises which are open to and used by patrons so that all objects are plainly visible at all times, and so that on any part of the premises which are open to and used by patrons a program, menu, or list printed in 8 point type will be readable by the human eye with 20/20 vision from two feet away.

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C. Submittal of Plans: Building plans and lighting calculations showing conformance with the requirements of this Section shall be included with any application for an adult cabaret or adult theater business license. Building plans must be in compliance with all building, planning and other applicable state, local and federal regulations.

## Section 17. Standards Of Conduct And Operation Applicable To Adult Cabarets:

A. Standards for Patrons, Employees and Entertainers: The following standards of conduct must be adhered to by patrons, entertainers and/or employees of adult cabarets at all times live performances are provided.

1. No employee or entertainer may appear nude on any part of the premises open to view of members of the public, except in the entertainment performance area described in Section 16(A) above. No entertainer may perform anywhere on the premises except in the entertainment performance area described above.
2. No patron or customer shall go into or upon the sexually-oriented live performance area described in Section 16A above.
3. No member of the public or employee or entertainer shall allow, encourage, or knowingly permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus, pubic area, or genitals of themselves or another.
4. No member of the public or employee or entertainer shall allow, encourage, or permit physical contact between an employee or entertainer and any member of the public.
5. No employee or entertainer shall perform acts of or acts which simulate:
  - a. Sexual intercourse, masturbation, bestiality, sodomy, oral copulation, flagellation, or any sexual acts the performance of which are prohibited by law; or
  - b. The touching, caressing, or fondling of the breasts, buttocks, pubic area, or genitals.
6. No employee or entertainer shall use artificial devices or inanimate objects to depict any of the prohibited activities described in this subsection.
7. No entertainer shall be visible from any public place outside the premises during the actual or apparent hours of his/her employment or performance on the premises.

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8. No entertainer or other employee employed or otherwise working at an adult cabaret or adult theater shall solicit, demand, accept, or receive either directly or indirectly any gratuity or other payment from a patron, customer, or member of the public except an initial entrance fee or similar fee set out by the premises.
9. It is unlawful for any entertainer, manager, or wait person to perform more than one such function at an adult cabaret on the same business day.
10. No customer or patron of an adult cabaret shall give either directly or indirectly, or otherwise provide an entertainer with a gratuity or other payment, except an initial entrance fee or similar fee set out by the premises.
11. When not performing, entertainers are prohibited from being present in areas of the establishment that are open to the patrons of the establishment. Entertainers are required to use separate restroom facilities.
12. At least two signs, in English, of sufficient size to be readable at twenty (20) feet shall be conspicuously displayed in the public area of the establishment stating the following:

THIS ADULT CABARET OR ADULT THEATER IS REGULATED  
BY THE CITY OF WOODINVILLE. ENTERTAINERS ARE:

- (a) Not permitted to engage in any type of sexual conduct;
  - (b) Not permitted to appear nude except on stage;
  - (c) Not permitted to appear semi-nude or clothed and dance or model, except on stage;
  - (d) Not permitted to dance or model except on stage;
  - (e) Not permitted to solicit, demand, accept, or receive directly or indirectly any gratuity or other payment from a patron.
13. There must be at least one employee not an entertainer on duty and situated in any public area at all times that any patron, member or customer is present inside the premises.
  14. Doors to areas on the premises which are available for use by persons other than the owner, manager, operator or their agents or employees may not be locked during business hours.

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15. No person may operate or maintain any warning system or devise, of any nature or kind, for the purpose of warning or aiding and abetting the warning of patrons, members, customers or any other persons that police officers or health, fire or building inspectors are approaching or have entered the premises.

B. Standards for Owner or Operator of Adult Cabarets or Adult Theaters: At any adult cabaret or adult theater where live performances are provided:

1. Admission must be restricted to persons of the age of eighteen (18) years or more pursuant to RCW 9.68A.150; and the identification of all patrons must be checked by the employees of the premises.
2. Sufficient lighting shall be provided in or 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, and allows for the reading of a program, menu, or list printed in 8 point type by the human eye with 20/20 vision from two feet away.

**Section 18. Regulations:** All adult bookstores, adult novelty stores, adult arcades, or adult video stores having facilities for customers' viewing of depictions of human nudity and/or sexual conduct of any nature, including depictions of specified sexual activities, shall comply with the following regulations:

A. Construction/Maintenance:

1. The viewing areas within the sexually-oriented adult arcade premises shall each be visible from a manager's station and shall not be obscured by any curtain, door, wall or other enclosure. As used in this section "viewing area" means the area where a patron or customer would be positioned while watching a film, video or other viewing device.
2. All areas shall be maintained in a clean and sanitary condition at all times with sufficient lighting so that all objects are plainly visible at all times or listed print in 8-point type will be readable by the human eye with 20/20 vision from two (2) feet away.
3. Restrooms may not contain video reproduction equipment.
4. No steps or risers are allowed in any adult arcade booth or station.
5. No adult arcade station or booth shall have more than one stool type seat. In order to prevent obscuring the occupant of an adult arcade station or booth from view, no stool for seating within an adult arcade station or booth shall have any seat back or sides.

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6. All ventilation devices between the adult arcade booths must be covered by a permanently affixed ventilation cover. Ventilation holes may only be located one foot from the top of the booth walls or one foot from the bottom of the booth walls. There may not be any other holes or openings ("Glory Holes," etc.) in the booths.

7. No person may operate any kind of warning device or system for the purpose of warning or aiding or abetting the warning of any patron, employee or other persons that the police, health, fire or building inspector or other public officials are approaching or entering the premises.

8. The licensee shall not permit any doors to public areas on the premises to be locked during business hours, in violation of the applicable provisions of the Woodinville Building Code, Uniform Fire Code, and National Fire Protection Association Code.

9. No person under 18 years of age shall be permitted in such premises. The employees shall check identification of all who enter.

B. Unlawful Conduct: The following conduct or activity is unlawful:

1. Masturbation or sexual activity of any kind in viewing booths
2. Two (2) or more customers in a viewing booth at the same time
3. For the owner or manager to knowingly allow any of the disallowed conduct.
4. Non-compliance with any other regulations set forth in this chapter.

C. Signs:

1. At least two signs shall be conspicuously and permanently posted on the premises in readable English type from 10 feet away, advising customers using viewing booths that:
  - a. Masturbation in such booths is prohibited and unlawful.
  - b. That it is unlawful for more than one (1) customer to occupy a viewing booth at any time.
  - c. Violations are subject to criminal prosecution.

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**Section 19. Regulations Applicable To Video Stores Not Qualifying As Sexually-oriented Businesses:** Video stores that sell or otherwise distribute films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and less than 30% of their revenues inventory or floor space includes such items, shall be subject to state regulations, and the following:

A. All such items as are described above shall be physically segregated and closed off from other portions of the store such that these items are not visible and/or accessible from other portions of the store.

B. No advertising for such items shall be posted or otherwise visible, except where such items are authorized by law for display.

C. Signs, in English, readable at a distance of 20 feet shall be posted at the entrance to the area where such items are displayed stating that persons under the age of eighteen (18) are not allowed access to the area where "erotic" items as defined by state statute and/or court order are displayed.

D. The manager or attendant shall take reasonable steps to monitor the area where such "erotic" items are displayed to ensure that persons under eighteen (18) years of age do not access the age-restricted area.

E. Rental or sale of obscene material (as defined herein) shall be considered a moral nuisance, and subject to abatement pursuant to this ordinance and RCW 7.48.058.

F. Employees of such video stores shall check identification for the age of all persons renting or purchasing such "erotic" items.

G. The store shall not employ anyone under eighteen (18) if the store sells or otherwise distributes films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**Section 20. Exemptions:** This ordinance shall not be construed to prohibit

A. A person appearing in a state of nudity or semi-nudity, modeling in a class operated by: a proprietary school, licensed by the State of Washington; a college, junior college, or university supported entirely or partly by taxation; a private college university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or the modeling of clothing or lingerie in a full-service restaurant where no consideration is charged, whether

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directly or indirectly, specified anatomical areas are opaquely covered and not exposed by the model and the models are not within six (6) feet of any patron of the restaurant.

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

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

D. Exhibitions, performances, expression or dances that are not obscene.

**Section 21. License - Name Of Business And Place Of Business:**

No person granted a permit and/or license pursuant to this ordinance shall operate a sexually-oriented business under a name not specified in his/her license, nor shall he/she conduct business under any designation or at a location not specified in his/her permit and/or license.

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## **Section 22. Inspections:**

A. All books and records required to be kept pursuant to this ordinance shall be open to inspection by the Chief of Police or designee of the City of Woodinville during the hours when the licensed premises is open for business. The purpose of such inspection shall be to determine if the books and records meet the requirements of this ordinance.

B. The licensed premises shall be (as an implied condition of receiving a sexually-oriented business permit and/or license) open to inspection by the City's Chief of Police, fire or health officials, or their designees during the hours when the sexually-oriented business premises is open for business. The purpose of such inspection shall be to determine if the licensed premises is operated in accordance with the requirements of this ordinance. It is hereby expressly declared that unannounced inspections are necessary to ensure compliance with this ordinance.

**Section 23. Hours Of Operation:** It is unlawful for any sexually-oriented business premises, except adult motels, to be conducted, operated, or otherwise open to the public between the hours of one a.m. (1:00 a.m.) and four p.m. (4:00 p.m.).

**Section 24. Alcohol Prohibited:** Alcoholic beverages are prohibited from being served or present at any business subject to regulation under this ordinance.

**Section 25. Barkers Prohibited:** The use of "Barkers" as defined herein by any sexually oriented business, or business offering sexually oriented material, shall be prohibited.

## **Section 26. Record Keeping Requirements:**

A. Within thirty (30) days following each calendar quarter, each sexually-oriented business licensee shall file with the City Clerk/Treasurer a verified report showing the licensee's gross receipts and amounts paid to entertainers, models, or escorts, if applicable, for the preceding calendar year.

B. Each sexually-oriented business licensee shall maintain and retain for a period of two (2) years from the date of termination of employment, the names, addresses, social security numbers and ages of all persons employed or otherwise retained as entertainers, models, and escorts by the licensee.

## **Section 27. Denial, Suspension Or Revocation Of License Or Permit Procedures - Appeal:**

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I-A. When the City Clerk/Treasurer refuses to grant a license or permit, or revokes the same, he/she shall notify the applicant in writing of the same, describing the reasons therefore, and shall inform the applicant of his right to appeal to the City Council within ten (10) days of the date of the written notice by filing a written notice of appeal with the City Clerk containing a statement of the specific reasons for the appeal and a statement of the relief requested.

I-B. Whenever the City Clerk/Treasurer has found or determined that any violation or change in circumstances of this ordinance has occurred, s/he shall issue a Notice of Violation and Suspension or Revocation ("Notice") to the licensee or permit holder.

The Notice shall include the following:

1. Name(s) of person(s) involved.
2. Description of the violation(s), including date and section of this ordinance violated.
3. Description of the administrative action taken.
4. Rights of appeal as set forth above.

The Notice shall be served either personally or by mailing a copy of the Notice by certified mail, postage prepaid, return receipt requested, to the licensee at his or her last known address. Proof of personal service shall be made at the time of service by a written declaration under penalty of perjury, executed by the person effecting the service, declaring the time, date, and the manner by which service was made. The decision may be appealed to the City Council if request for appeal is filed with the City Clerk within 10 days of receipt of the notice. Said request shall be in writing, state specific reasons for the appeal, and the relief requested.

I-C. The suspension or revocation of a license shall be immediately effective unless a stay thereof is specifically requested in the written request for an appeal.

II-A. Within ten (10) days of receiving a timely appeal, the City Clerk/Treasurer shall forward the administrative record of the licensing decision to the City Council.

II-B. When an applicant has appealed the City Clerk/Treasurer decision according to the stipulations herein, the City Council shall review the administrative record at the next regularly scheduled meeting for which proper notice can be given. Written notice of the date and time of the scheduled meeting will be given to the applicant by the City

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Clerk/Treasurer by mailing the same, postage prepaid, to the applicant at the address shown on the license or permit application.

II-C. If the licensee appeals the Notice to the City Council, the licensee shall be afforded a reasonable opportunity to be heard as to the violation and action taken. The applicant and City Clerk/Treasurer or his representative shall be given an opportunity to argue the merits of the appeal before the City Council. Oral argument by each party shall not exceed ten (10) minutes and shall be limited to the administrative record before the Council.

II-D. The City Council shall uphold the City Clerk/Treasurer's decision unless it finds the decision is not supported by substantial evidence in the administrative record. The City Clerk/Treasurer shall have the initial burden of proof.

II-E. The City Council shall issue a written decision within ten (10) days of hearing the appeal. The Council may uphold the City Clerk/Treasurer's decision and deny the permit, overrule the City Clerk/Treasurer's decision and grant the permit, or remand the matter to the City Clerk/Treasurer for further review and action. The City Clerk/Treasurer shall complete further action or review within thirty (30) days of receiving the remand.

II-F. Decision by the City Council shall constitute final administrative review. Applicant shall be responsible for the cost of any preparation of record for appeal.

II-G. Either party may seek judicial review of a final decision of the City Council as provided by law.

II-H. Applicant shall be responsible for the cost of any preparation of record for appeal.

## **Section 27. Suspension Or Revocation Of License/Permit - Duration:**

A. The City shall suspend any license as required by this ordinance for a period of ninety (90) days upon the licensee's first violation of this ordinance.

B. The City shall suspend any license required by this ordinance for a period of one-hundred eighty (180) days upon the licensee's second violation of this ordinance.

C. The City shall revoke any license required by this ordinance for a period of two (2) years upon the licensee's third, or any subsequent, violation of this ordinance.

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D. Notwithstanding the other provisions of this ordinance, the City shall revoke or deny the renewal of any license required by this ordinance for two (2) years if the licensee has made any false or misleading statements or misrepresentations to the City.

E. Application for a new license may be made following the expiration of the applicable revocation period.

## **Section 28. Applicability To Currently Operating Businesses:**

Any sexually-oriented business legally operating upon the effective date of this ordinance shall be exempted from the permit and application requirements of Sections 6, 7, and 8 above for the remainder of 1994. This Section shall not be construed to exempt any legally operating adult bookstore from ceasing to operate portions of such business as an adult arcade pursuant to other regulations.

## **Section 29. Limitations Of Liability:**

None of the provisions of this ordinance are intended to create a cause of action or provide the basis for a claim against the City, its officials, or employees for the performance or the failure to perform a duty or obligation running to a specific individual or specific individuals. Any duty or obligation created herein is intended to be a general duty or obligation running in favor of the general public.

## **Section 30. Penalties For Violation:**

Any person violating any provision(s) of this ordinance shall be guilty of a misdemeanor. Any person convicted of such a violation shall be punished by a fine of not more than one thousand dollars (\$1,000) or a jail term of not more than ninety (90) days, or both. Each such person is guilty of a separate misdemeanor for each and every day which any violation of this ordinance is committed, continued, or permitted by any such person and said person shall be punished accordingly. Any persons violating any of the provisions of this ordinance shall also be subject to license suspension or revocation and nuisance abatement as set forth herein.

## **Section 31. Public Nuisance/Injunctions:**

Any sexually-oriented businesses in violation of this ordinance shall be deemed a public nuisance, which, in addition to all other remedies, may be abated by injunctive relief.

## **Section 32. Severability:**

If any portion of this ordinance as now or hereafter amended, or its application to any person or circumstance is held invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole, or any section, provision, or part thereof not adjudged to

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be invalid or unconstitutional, and its application to other persons or circumstances shall not be affected. Any ordinance or regulation in conflict with this ordinance is hereby repealed.

## Section 33. Effective Date:

This ordinance shall take effect and be in force five days after its passage and legal publication.

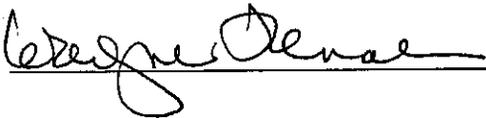
PASSED BY THE CITY COUNCIL OF THE CITY OF WOODINVILLE this 12<sup>th</sup>  
day of December, 1994, and signed in authentication of its passage this 12<sup>th</sup> day of  
December, 1994.

  
Robert Miller, Deputy Mayor

Attest:

  
James Katica  
City Clerk/Treasurer

Approved As To Form:  
Office Of The City Attorney:



FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NO. \_\_\_\_\_