

CHAPTER 10.06

OFFENSES AGAINST PUBLIC MORALS

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10.06.011: Definitions: In this chapter, unless a different meaning plainly is required:

- (1) "Erotic Materials" means a live performance or visual or printed material:
 - (a) Which the average person, applying to contemporary community standards, would find, when considered as a whole, appeals to prurient interests; and
 - (b) Which explicitly depicts or describes patently offensive representations or descriptions of sexually explicit conduct or actual or simulated sexual intercourse, including genital-genital, oral-genital and anal-genital or oral-anal, whether between persons of the same or opposite sex or between humans and animals; penetration of the vagina or rectum by any object; masturbation, for the purpose of sexual stimulation of the viewer; sadomasochistic abuse for the purpose of sexual stimulation of the viewer; exhibition of the genitals or unclothed pubic or rectal areas of any minor for the purpose of sexual stimulation of the viewer; defecation or urination for the purpose of sexual stimulation of the viewer; and touching of a person's clothed or unclothed genitals, pubic area, buttocks, or breast area for the purpose of sexual stimulation of the viewer; and
 - (c) Which when considered as a whole in the context in which it is used, lacks serious literary, artistic, political, or scientific value.
- (2) "Lewd Act" means public (a) exposure of one's genitals or female breasts; or (b) touching, caressing, or fondling of the genitals or female breasts; or (c) exposure of one's buttocks; or (d) masturbation; or (e) sexual intercourse.
- (3) "Live Performance" means any play, show, skit, dance, or other exhibition performed or presented to, or before an audience of one or more, with or without consideration.
- (4) "Minor" means any person under the age of eighteen years.
- (5) "Public Place" means an area generally visible to public view, and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles

(whether moving or not), and buildings open to the general public, including those which serve food or drink or provide entertainment, the doorways and entrances to buildings or dwellings, and the grounds enclosing them. Public place does not include, however, places of public resort or private establishments providing entertainment or other expressive conduct where those entering are informed of the nature of the performance, conduct or entertainment to be provided.

(6) "Sexual Contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of other party.

(7) "Sexual Intercourse" (a) has its ordinary meaning and occurs upon any penetration, however slight, and (b) also means any penetration of the vagina or anus however slight by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and (c) also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex. (Ord. 3273 Sec. 2, 1990: Ord. 3110 Sec. 1, 1987: Ord. 2641 Sec. 8, 1981)

10.06.020: Prostitution: A person is guilty of prostitution if such person engages or agrees or offers to engage in sexual contact or sexual intercourse with another person in return for a fee. (Ord. 2461 Sec. 9, 1981: Ord. 2089 Sec. 2 (part), 1977)

10.06.030: Prostitution Loitering:

(1) Every person who remains in a public place and intentionally solicits, induces, entices, or procures another to commit prostitution, is guilty of a misdemeanor.

(2) Among the circumstances which may be considered in determining whether the actor intends such prohibited conduct, are that he:

- (a) Repeatedly beckons to, stops, or attempts to stop passersby, or engages passersby in conversation; or
- (b) Repeatedly stops, or attempts to stop, motor vehicle operators by hailing, waiving of arms, or other bodily gesture; or
- (c) Is a known prostitute or panderer.

(3) For the purposes of this chapter, "known prostitute or panderer" means a person who, within one year previous to the date of arrest for violation of provisions of this chapter, has, within the knowledge of the arresting officer, been convicted of an offense involving prostitution. (Ord. 2089 Sec. 2 (part), 1977)

10.06.040: Patronizing a Prostitute: Every person who does any of the following acts, is guilty of a misdemeanor:

(1) Pursuant to a prior understanding, pays a fee to another person as compensation for such person, or a third person, having engaged in sexual conduct with him; or

(2) Pays, or agrees to pay, a fee to another person pursuant to an understanding that, in return therefor, such person will engage in sexual conduct with him; or

(3) Solicits or requests a known prostitute to engage in sexual conduct with him in return for a fee. (Ord. 2089 Sec. 2 (part), 1977)

10.06.045: Prostitution and Patronizing Prostitute - No Defense: In any prosecution for patronizing a prostitute, the sex of the two parties or prospective parties to the sexual conduct engaged in, contemplated, or solicited is immaterial, and it is no defense that:

- (1) Such persons were of the same sex; or
- (2) The person who received, agreed to receive or solicited a fee was a male and the person who paid or agreed or offered to pay such fee was female. (Ord. 2452 Sec. 1, 1980)

10.06.050: Permitting Prostitution: Every person who, having possession or control of premises which he knows are being used for prostitution purposes, fails to make a reasonable effort to halt or abate such use, is guilty of a misdemeanor. (Ord. 2089 Sec. 2 (part), 1977)

10.06.060: Pandering: Every person who entices or procures another by promise, threat, fraud or artifice to enter a place in which prostitution is practiced for the purposes of prostitution, or, other than as a prostitute or a customer of a prostitute encourages or facilitates an act of prostitution is guilty of a gross misdemeanor. (Ord. 2866 Sec. 1, 1984: Ord. 2089 Sec. 2 (part), 1977)

10.06.071: Minors - Access to Erotic Materials: No person may knowingly allow a minor to be on the premises of a commercial establishment if there is a live performance containing erotic material or on that portion of a commercial premises displaying for sale, lease or perusal, visual or printed matter containing erotic material. A violation of this section is a gross misdemeanor. (Ord. 3110 Sec. 2 (part), 1987)

10.06.075: Applying Tattoo to a Minor: Consistent with RCW 26.28, Laws of Washington, every person who applies a tattoo to any minor under the age of eighteen is guilty of a misdemeanor. It is not a defense to a violation of this section that the person applying the tattoo did not know the minor's age unless the person applying the tattoo establishes by a preponderance of the evidence that he or she made a reasonable bona fide attempt to ascertain the true age of the minor by requiring production of a driver's license or other picture identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

For the purposes of this section, "tattoo" includes any permanent marking or coloring of the skin with any pigment, ink, or dye, or any procedure that leaves a visible scar on the skin. Medical procedures performed by a licensed physician are exempted from this section. (Ord. 4027 Sec. 1, 2002: Ord. 3984 Sec. 1, 2001)

10.06.081: Indecent Exposure:

- (1) A person is guilty of indecent exposure if he intentionally makes an open and obscene exposure of his person or the person of another, knowing that such conduct is likely to cause affront or alarm. The act of breast feeding or expressing breast milk is not indecent exposure.
- (2) Indecent exposure is a misdemeanor unless such person exposes himself to a child under the age of 14 years in which case indecent exposure is a gross misdemeanor. (Ord. 5057 Sec. 10, 2004: Ord. 3110 Sec. 2 (part), 1987)

10.06.090: Committing a Lewd Act: A person is guilty of lewd conduct if he intentionally performs any lewd act in a public place, under circumstances where such act could be observed by any member of the public. Nothing in this section shall be construed to prohibit, limit or restrict lewd expression in other than a public place or that which is non-obscene or expressive nude activity. (Or. 5097 Sec. 1, 2005: Ord. 3273 Sec. 1, 1990: Ord. 2089 Sec. 2 (part), 1977)

10.06.095: Urinating or Defecating in a Public Place: A person is guilty of urinating or defecating in a public place if he intentionally urinates or defecates in a public place other than in a washroom or toilet room. (Ord. 2963 Sec. 2, 1986)

10.06.100: Aiding and Abetting: The owner, operator or manager of premises open to the public is guilty of lewd conduct if he intentionally permits, or causes, any lewd act on said premises. (Ord. 2089 Sec. 2 (part), 1977)

10.06.110: Violation - Penalties: Unless otherwise provided, violation of any provision of this chapter is a misdemeanor. (Ord. 3110 Sec. 2, 1987; Ord. 2089 Sec. 2 (part), 1977)