

Chapter 5.64

BIKINI CLUBS

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

- A. "Applicant" means the individual or entity seeking a license to operate a bikini club in the City of Snohomish. Upon issuance of a license, the applicant may be referred to as the "licensee."
- B. "Applicant control person" means all partners, corporate officers and directors and any other individuals in the applicant's business organization who hold a significant interest in the business, based on responsibility for the management of the business.
- C. "Beginning work" shall mean engage in activities for a business required to be licensed by this chapter, whether the relationship is deemed between employer and employee or owner and independent contractor.

- D. "Bikini club" is a building or a portion of a building, not an adult cabaret, but which contains any exhibition or dance wherein any employee or entertainer is paid by a member or members of the adult public directly for the privilege of viewing the dance or exhibition.
- E. "Clerk" shall mean the City Clerk or Deputy City Clerk as appointed pursuant to the provisions of Chapter 2.30 Snohomish Municipal Code.
- F. "Employee" or "independent contractor" means any and all persons, including managers and entertainers who work in or at or render any services directly related to the operation of a bikini club.
- G. "Hearing Examiner" shall mean the Hearing Examiner as appointed pursuant to the provisions of Chapter 2.33 of the Snohomish Municipal Code.
- 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 at a bikini club. An "assistant manager" shall be that person who, in the absence of the manager or jointly with the manager, shall undertake the duties of the manager as defined by this section.
- I. "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture or other entity or group of persons, however organized.
- J. "Security personnel" means those persons at a bikini club who are either responsible for admissions to the bikini club or who act to preserve the peace in the facility through the control of the patrons or employees or independent contractors in the facility.

5.64.020 License Required.

- A. It is unlawful for any person to conduct, manage or operate a bikini club unless such person is the holder of a valid and subsisting license from the City to do so obtained in the manner provided in this chapter.
- B. It is unlawful for any entertainer or manager to knowingly work in or about, or to knowingly perform any service or entertainment directly related to the operation of an unlicensed bikini club.
- C. It is unlawful for any employee or independent contractor or entertainer to perform in a bikini club unless such person is the holder of a valid and subsisting license from the City to do so.
- D. It is unlawful for any manager or assistant manager to work in a bikini club unless such person is the holder of a valid and subsisting license from the City to do so.
- E. It is unlawful for any security personnel to work in a bikini club unless such person is the holder of a valid and subsisting license from the City to do so.

5.64.030 Bikini Club Licenses.

- A. All applications for a bikini club license shall be submitted to the Clerk in the name of the person or entity proposing to conduct said business and shall be signed by such person and certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the City, which shall require the following information:
 - 1. For the applicant and for each applicant control person, provide: names, any aliases or previous

names, driver's license number, if any, Social Security number, if any, and business, mailing and residential address, and business telephone number.

- 2. If a partnership, whether general or limited, the names and addresses of all partners; and if a corporation, date and place of incorporation, names and addresses of all shareholders, evidence that it is in good standing under the laws of Washington, and name and address of any registered agent for service of process.
- 3. Whether the applicant or any partner, corporate officer, or director of the applicant holds any other licenses under this chapter or any license for adult cabaret, adult motion picture theater, adult drive-in theater, or adult panorams, from the City or another city, county or state, and if so, the names and addresses of each other licensed business.
- 4. A summary of the business history of the applicant and applicant control persons in owning or operating a bikini club, an adult cabaret, adult motion picture theater, adult drive-in or an adult panoram, providing names, addresses and dates of operation for such businesses, and whether any business license has been revoked or suspended, and the reason therefor.
- 5. For the applicant and all applicant control persons, any and all criminal convictions or forfeitures within five (5) years immediately preceding the date of the application, other than parking offenses or minor traffic infractions including the dates of

- conviction, nature of the crime, name and location of court and disposition.
6. For the applicant and all applicant control persons, a description of business, occupation or employment history for the three (3) years immediately preceding the date of the application.
 7. Authorization for the City, its agents and employees to seek information to confirm any statements set forth in the application.
 8. The location and doing-business-as name of the proposed bikini club, including a legal description of the property, street address, and telephone number, together with the name and address of each owner and lessee of the property.
 9. Two (2) two-inch by two-inch color photographs of the applicant and applicant control persons, taken within six (6) months of the date of application showing only the full face.
 10. A complete set of fingerprints for the applicant or each applicant control person taken by Snohomish Police Department employees.
 11. A scale drawing or diagram showing the configuration of the premises for the proposed bikini club, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, manager's office and stations, restrooms and service areas shall be clearly marked on the drawing. When required, an exterior lighting plan shall be submitted also.
- B. An application shall be deemed complete upon the applicant's provision of all information requested above, including identification of "none" where that is the correct response, and the applicant's verification that the application is complete. The Clerk may request other information or clarification in addition to that provided in a complete application where necessary to determine compliance with this chapter.
 - C. A nonrefundable application fee of \$700.00 must be paid at the time of filing an application in order to defray the costs of processing the application. The annual renewal fee shall be \$500.00.
 - D. Each applicant shall verify, under penalty of perjury, that the information contained in the application is true.
 - E. If any person or entity acquires, subsequent to the issuance of a license under this chapter, a significant interest based on responsibility for management or operation of the licensed premises or the licensed business, notice of such acquisition shall be provided in writing to the City Clerk, no later than twenty-one (21) days following such acquisition. The notice required shall include the information required for the original license application.
 - F. The bikini club license, if granted, shall state on its face the name of the person or persons to whom it is issued, the expiration date, the doing-business-as name and the address of the licensed bikini club. The license shall be posted in a conspicuous place at or near the entrance to the bikini club so that it can be easily read at anytime the business is open.
 - G. No person granted a license pursuant to this chapter shall operate the business

under a name not specified on the license, nor shall any person operate a business licensed under this chapter under any designation or at any location not specified on the license. A separate license shall be required for each location at which a business covered by this chapter is operated. A license shall be valid for one year, and must be annually renewed.

H. Upon receipt of the complete application and fee, the Clerk shall provide copies to the police, fire and community development departments for their investigation and review to determine compliance of the proposed business with the laws and regulations which each department administers. Each department shall, within thirty (30) days of the date of such application, inspect the application and premises and shall make a written report to the Clerk whether such application and premises complies with the laws administered by each department. No license may be issued unless each department reports that the application and premises comply with the relevant laws. In the event the premise is not yet constructed, the departments shall base their recommendation as to premises compliance on their review of the drawings submitted in the application. Any license approved prior to premises construction shall contain a condition that the premises may not open for business until the premises have been inspected and determined to be in substantial conformance with the drawings submitted with the application and submitted with any application for a building permit. A department shall recommend denial of a license under this subsection if it finds that the proposed business is not in conformance with the requirements of this chapter or other law in effect in the City. A recommendation

for denial shall cite the specific reason therefor, including applicable laws.

I. A license shall be issued by the Clerk within thirty (30) days of the date of filing a complete license application and fee, unless the Clerk determines that the applicant has failed to meet any of the requirements of this chapter or provide any information required under this subsection or that the applicant has made a false, misleading or fraudulent statement of material fact on the application for a license. The Clerk shall grant an extension of time in which to provide all information required for a complete license application upon the request of the applicant. If the Clerk finds that the applicant has failed to meet any of the requirements for issuance of a license, the Clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable law. If the Clerk fails to issue or deny the license within thirty (30) days of the date of filing of a complete application and fee, the applicant shall be permitted, subject to all other applicable law, to operate the business for which the license was sought until notification by the Clerk that the license has been denied, but in no event may the Clerk extend the application review time for more than an additional twenty (20) days.

5.64.040 Bikini Club Manager, Assistant Manager, Security Personnel and Entertainer Licenses.

A. No person shall work as a manager, assistant manager, security personnel or entertainer at a bikini club without an entertainer's, managers, or security personnel's license from the City. Each applicant for a manager's, security personnel's or entertainer's license shall complete an application on forms

provided by the City containing the information identified below. A nonrefundable application fee of \$100.00 shall accompany the application. A copy of the application shall be provided to the Police Department for its review, investigation and recommendation. All applications shall be signed by the applicant and certified to be true under penalty of perjury. The license application shall require the following information:

1. The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by Snohomish Police Department employees, Social Security number, and in the entertainer's application any stage names or nicknames used in entertaining.
2. The name and address of each business at which the applicant intends to work.
3. Documentation that the applicant has attained the age of eighteen (18) years. Any two 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; or

e. any other identification that the City determines to be acceptable.

4. A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five (5) years immediately preceding the date of the application, except parking violations or minor traffic infractions.
 5. A description of the applicant's principal activities or services to be rendered.
 6. Two (2) two-inch by two-inch color photographs of applicant, taken within six (6) months of the date of application showing only the full face.
 7. Authorization for the City, its agents and employees to investigate and confirm any statements set forth in the application.
 8. Every entertainer and each and all security personnel shall provide his or her license to the bikini club manager on duty on the premises prior to beginning work. The manager shall retain the licenses of the entertainers and security personnel readily available for inspection by the City at any time during business hours of the bikini club.
- B. The Clerk may request additional information or clarification when necessary to determine compliance with this chapter.
- C. A bikini club manager's or security personnel's or entertainer's license shall be issued by the Clerk within fourteen (14) days from the date the complete

application and fee are received unless the Clerk determines that the applicant has failed to provide any information required to be supplied according to this chapter, has made any false, misleading or fraudulent statement of material fact in the application, or has failed to meet any of the requirements for issuance of a license under this chapter. If the Clerk determines that the applicant has failed to qualify for the license applied for, the Clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. If the Clerk has failed to approve or deny an application for a bikini club manager's or security personnel's license within fourteen (14) days of filing of a complete application, the applicant may, subject to all other applicable laws, commence work as a bikini club manager or as security personnel in a duly licensed bikini club until notified by the Clerk that the license has been denied, but in no event may the Clerk extend the application review time for more than an additional twenty (20) days.

- D. An applicant for an entertainer's license shall be issued a temporary license upon receipt of a complete license application and fee. Said temporary license will automatically expire on the fourteenth day following the filing of the complete application and fee, unless the Clerk has failed to approve or deny the license application, in which case the temporary license shall be valid until the Clerk approves or denies the application, or until the final determination of any appeal from a denial of the application. In no event may the Clerk extend the application review time for more than an additional twenty (20) days. If the Clerk determines that the entertainer has failed to qualify for the license applied for, the Clerk shall deny the application in

writing and shall cite the specific reasons therefor, including applicable laws.

- E. A license issued under this section shall be valid for one year and must be annually renewed. The annual renewal fee for a manager, assistant manager, entertainer or for security personnel shall be \$75.00.

5.64.050 Denials of License. Should the person seeking a license under this chapter disagree with the Clerk's determination, the applicant must file a notice of non-acceptance with the City Attorney's office within ten (10) working days of receipt of the notification of denial.

- A. The City shall, within five (5) working days following receipt of the notice of non-acceptance, apply to the Superior Court for a judicial determination as to whether the applicant's license was properly denied. The burden of showing that the applicant's license was properly denied shall rest on the City.
- B. If a preliminary judicial determination sustaining the City's denial of the subject license is not obtained within five (5) working days from the date the complaint is served, an interim license shall be issued under this chapter by operation of the law. The interim license shall issue in any event if a final judicial determination on the merits is not obtained within twenty (20) days from the date the complaint is filed. In such case, the interim license will remain in effect until a final judicial determination on the merits is reached; provided, however, that any delays caused or requested by the applicant shall be excluded from the above-mentioned twenty-day period.

5.64.060 Suspension or Revocation of Licenses--Notice--Summary Suspension or Revocation.

A. The City Clerk may suspend or revoke any license issued pursuant to this chapter for a period of time not to exceed one year where one or more of the following conditions exist:

1. The license was procured by fraud or false representation of fact in the application or in any report or record required to be filed with the Clerk;
2. The building, structure, equipment, operation or location of the business for which the license was issued does not comply with the requirements or fails to meet the standards of this chapter;
3. The applicant, applicant control person, manager, assistant manager, entertainer, or security personnel has violated or permitted violation of any of the provisions of this chapter.

B. The procedure for revoking or suspending a license under this chapter shall be the following: Upon determining that grounds for revocation or suspension exist, the City Clerk shall send the licensee a notice of intent to revoke or suspend the license. Such notice shall set forth the grounds for suspension or revocation and schedule a hearing before the Hearing Examiner. The Hearing Examiner is hereby specifically authorized to conduct said hearing in accordance with the following procedures (and not the procedures of Chapter 2.33 of the Snohomish Municipal Code):

1. The hearing shall be held no earlier than three (3) and no later than ten

(10) working days from the date of notice of intent to revoke.

2. The licensee shall be permitted to present evidence in support of his position at the hearing.
3. Within two working days after the hearing, the Hearing Examiner shall notify the licensee in writing of his/her determination and reasons therefor.
4. Should the licensee disagree with the determination, he/she must file a notice of non-acceptance with the City Attorney's office within ten (10) working days of receipt of the Hearing Examiner's determination.
5. In the event that a notice of non-acceptance is not filed, the Hearing Examiner's determination shall become final and the suspension/revocation shall be given immediate effect.

C. The City shall, within five (5) working days following receipt of a notice of non-acceptance, file a complaint with the Superior Court enjoining the licensee from operating his/her business or acting pursuant to his/her license. The burden of proof shall be on the City. The status quo shall be maintained and the Clerk's determination of revocation or suspension shall not be effective until a final judicial determination on the merits affirming the suspension/revocation is rendered.

5.64.070 Standards of Conduct and Operation--Bikini Clubs. The following standards of conduct and operation must be adhered to by a bikini club and its employees and independent contractors:

A. Required on Premises. While open to the public, a licensed manager and/or assistant manager shall be on premises at all times. While open to the public, licensed, uniform-wearing security personnel in the following numbers shall be on premises at all times:

<u>Patron Seating</u>	<u>Number of Uniformed Security Personnel</u>
Less than 50 seats	1
50 to 100 seats	2
100 to 150 seats	3
More than 150 seats	4

B. Nudity. No employee, independent contractor or entertainer shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals.

C. Simulated Anatomy. No employee, independent contractor or entertainer mingling with members of the public shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva, genitals, anus, any portion of the pubic region, or buttocks.

D. Sexual Touching--Patrons. No employee, independent contractor or entertainer shall caress, fondle, or erotically touch any member of the public. No employee, independent contractor or entertainer shall encourage or permit any member of the public to caress, fondle or erotically touch any employee, independent contractor or entertainer.

E. Sexual Acts--Employees. No employee, independent contractor or entertainer shall perform actual or simulated acts of sexual conduct, or any act which constitutes a violation of RCW 7.48A,

the Washington Moral Nuisances Statute.

F. Four Feet. No employee, independent contractor or entertainer mingling with members of the public shall conduct any dance, performance or exhibition in or about the non-stage area of the bikini club unless that dance, performance or exhibition is performed at a distance of no less than four (4) feet from any member of the public.

G. Gratuities. No payment, tip or gratuity offered to or accepted by an entertainer may be offered or accepted prior to any performance, dance or exhibition provided by the entertainer. No entertainer performing upon any stage area shall be permitted to accept any form of payment or gratuity offered directly to the entertainer by any member of the public. Any payment or gratuity offered to any entertainer performing upon any stage area must be provided through a manager on duty on the premises. Any payment, gratuity or tip offered to any entertainer conducting any performance, dance or exhibition in or about the non-stage area of the bikini club shall be placed into the hand of the entertainer or into a receptacle provided by the entertainer, and not upon the person or into the clothing of the entertainer.

H. Admission. Admission must be restricted to persons of the age of eighteen (18) years or more. It shall be unlawful for any owner, operator, manager, or other person in charge of a bikini club to knowingly permit or allow any person under the minimum age specified to be in or upon such premises.

I. Employees; Independent Contractors. All employees, independent contractors or entertainers, managers and security

personnel shall be over the age of eighteen (18) years.

J. Signage. 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 bikini club.

K. Access to Nonpublic Areas. No member of the public shall be permitted at any time to enter into any of the nonpublic portions of the bikini club, which shall include but are not limited to: the dressing rooms of the entertainers or other rooms provided for the benefit of employees or independent contractors, and the kitchen and storage areas; EXCEPT that authorized vendors or service personnel 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.

L. Interior Lighting. Sufficient interior lighting shall be provided and equally distributed throughout the public areas of the premises so that all objects are plainly visible at all times and all parts of the public areas shall be illuminated so that patrons with normal vision on any part of the public areas of the premises shall be able to read written textual material printed in 8 point type. A sample of 8 point type follows:

This is a sample of 8 point type.

M. Exterior Lighting. All on-site parking areas and premise entries shall be illuminated from dusk until one hour past closing hours of operation with a lighting system that provides an average maintained horizontal illumination of

one (1) foot candle of light on the parking surface and/or walkways. An on-premise exterior lighting plan shall be included in the application for license submitted to the Clerk.

N. Signs. Two signs at least two feet by two feet, and one in the immediate area of the entrance, with letters at least one inch high shall be conspicuously displayed in the public area(s) of the premises stating the following:

<p>THIS BIKINI CLUB IS REGULATED BY THE CITY OF SNOHOMISH. ENTERTAINERS ARE:</p> <ol style="list-style-type: none">1. NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT.2. NOT PERMITTED TO APPEAR SEMI-NUDE OR NUDE EXCEPT ON STAGE.3. NOT PERMITTED TO ACCEPT PAYMENT, TIPS OR GRATUITIES IN ADVANCE OF THEIR PERFORMANCE.4. NOT PERMITTED TO ACCEPT PAYMENT, TIPS OR GRATUITIES DIRECTLY FROM PATRONS WHILE PERFORMING UPON ANY STAGE AREA.5. WHILE PERFORMING IN NONSTAGE AREAS, NOT PERMITTED TO ACCEPT PAYMENT, TIPS OR GRATUITIES EXCEPT THOSE PLACED IN THE ENTERTAINER'S HAND OR A RECEPTACLE.

5.64.080 Record Keeping.

A. All papers, records and things required to be kept pursuant to this chapter shall be open to inspection by the Clerk during the hours when the licensed premises are open for business, upon

two days' written notice. The purpose of such inspections shall be to determine whether the papers, records and things meet the requirements of this ordinance.

enforcement of the remainder of this chapter to any person or circumstances. (Ord. 1880, March 1999)

- B. Each bikini club shall maintain and retain for a period of two (2) years the name, address and age of each person employed or otherwise retained or allowed to perform on the premises as an entertainer or to act as a manager or security personnel, including independent contractors and their employees. This information shall be open to inspection by the Clerk during hours of operation of the business upon twenty-four (24) hours' notice to the licensee.

5.64.090 Inspections. In order to insure compliance with this chapter, all areas of a licensed bikini club which are open to members of the public shall be open to inspection by City agents and employees during the hours when the premises are open for business. The purpose of such inspections shall be to determine if the licensed premises are operated in accordance with the requirements of this chapter. It is hereby expressly declared that unannounced inspections are necessary to insure compliance with this chapter.

5.64.100 Misdemeanor. Any person knowingly violating any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in Section 9.04.050 Snohomish Municipal Code.

5.64.110 Severability. Each provision of this chapter is separate and severable from all other provisions of this chapter. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstances shall not affect the