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**ADULT ENTERTAINMENT
ZONING & LICENSING
COMMITTEE REPORT TO
THE CITY OF MOUNT**

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2017

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REPORT AUTHORIZATION

By signing below, we, the members of the City’s Adult Entertainment Advisory Committee, have approved this report with its Exhibits (as noted within the foregoing report) to be provided to the Mount Vernon Planning Commission and City Council.

Kathleen Bisagna _____

Brian Gentry _____

Ryan Hagman, Committee Co-Chair _____

Rudy Kerkvliet _____

Kari Matson _____

Lisa Zacherl, Committee Chair _____

This page will be replaced with the page containing all of the Committee's signatures

INTRODUCTION

This purpose of this report is to: 1) summarize the work completed by the Mount Vernon Adult Entertainment Zoning and Licensing Committee; and 2) make recommendations to the City's Planning Commission and City Council with regard to the regulation of adult entertainment uses in the City of Mount Vernon.

BACKGROUND

On October 26, 2016 the Mount Vernon City Council adopted Ordinances 3698 and 3699 that enacted interim licensing and zoning regulations related to adult business and adult entertainment. At the same time Council also adopted Resolution 920 creating an Adult Entertainment Zoning and Licensing Committee (herein after 'Committee'). The purpose of this Committee is "to assist the City in developing permanent development and licensing regulations for adult entertainment". Accompanying this report labeled as **Exhibit A** are copies of Ordinances 3698, 3699, and Resolution 920.

The Committee met a total of eight (8) times between November 29, 2016 to April 11, 2017. Attached labeled as **Exhibit B** are copies of all the Committee's Agendas and minutes.

The Committee is comprised of the following individuals:

- Kathleen Bisagna;
- Brian Gentry;
- Ryan Hagman;
- Rudy Kerkvliet;
- Kari Matson; and,
- Lisa Zacherl.

At the Committee's first meeting held on November 29, 2016 they appointed Lisa Zacherl as the Committee Chair and Ryan Hagman as the Committee's Co-Chair.

Following is the definition of Adult Entertainment adopted by the City within Ordinance 3698. This same definition is proposed to be adopted as part of the final amendments to MVMC Chapters 5.06, 5.13, and 17.72.

5.06.020 Definitions.

"Adult entertainment" means:

1. *Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance involves a person who is unclothed or in such costume, attire or clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or wearing any device or covering exposed to view which simulates the appearance of any portion of the female breast, pubic region, anus, buttocks, vulva or genitals, or human male genitals in a discernibly turgid state, even if completely covered; or*

2. *Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to the following specified sexual activities:*
 - a. *Human genitals in a state of sexual stimulation or arousal;*
 - b. *Acts of human masturbation, sexual intercourse or sodomy; or*
 - c. *Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts; or*
3. *Any exhibition, performance or dance intended to sexually stimulate any patron and conducted in a premises or part of a premises where such exhibition, performance or dance is performed for, arranged with or engaged in with fewer than all patrons on the premises at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance. For purposes of example only and not limitation, such exhibitions, performances or dances are commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.*

These same chapters of the MVMC also contain the following list of activities that are not meant to be regulated under these chapters:

5.06.125 Activities not prohibited -- Liquor licenses.

- A. This chapter shall not be construed to prohibit:
 1. Plays, operas, musicals or other dramatic works which are not obscene as defined in Section 5.06.125 B below;
 2. Classes, seminars and lectures held for serious scientific or educational purposes; or
 3. Exhibitions or dances which are not obscene as defined in section 5.06.125(B), below.

These exemptions shall not apply to the sexual conduct defined in MVMC 5.06.020, or the sexual conduct described in RCW 7.48.010 (2)(b)(ii) and (iii).

- B. Whether or not an activity is obscene shall be judged by consideration of the following factors:
 1. Whether the average person, applying contemporary community standards, would find that the activity taken as a whole appeals to a prurient interest in sex; and
 2. Whether the activity depicts or describes in a patently offensive way, as measured against contemporary community standards, sexual conduct as described in RCW 7.48A.010(2)(b); and
 3. Whether the activity taken as a whole, and in the context in which it is used, lacks serious literary, artistic, political or scientific value.

TASKS

The Committee was tasked with making recommendations to the City’s Planning Commission and City Council with regard to how adult entertainment uses should be regulated within the City. To complete this task the Committee studied, and within this report, will be making recommendations with regard to:

- A. Secondary Negative Impacts associated with adult entertainment uses;
- B. Sensitive Land Uses that need to be protected from adult entertainment uses; and,
- C. Areas of the City that adult entertainment uses should be located in the City.

These three (3) topic areas are discussed in detail below.

A. SECONDARY NEGATIVE IMPACTS: Defined as indirect negative impact that occur as a result of an adult entertainment uses locating in a geographic area. The Committee read and analyzed the following materials related to secondary negative impacts.

TABLE 1.1: COMMITTEE’S LIST OF MATERIALS READ & ANALYZED

DESCRIPTION OF REPORT/STUDY/ARTICLE/MATERIALS	FROM
A Report on Zoning and Other Methods of Regulating Adult Entertainment in Amarillo	City of Amarillo
Report on Adult Oriented Businesses in Austin	City of Austin
Location of Adult Entertainment Uses	City of Bellevue
Blaine Book Company Memorandum with Allegations of Rape and Solicitation of a Minor for Prostitution	Blaine Police Department
Adult Use Zoning Analysis, including their Legislative Record	City of Des Moines
Report on Crime at Existing Adult Retail Businesses	City of Everett, Crime Analysis Unit
The Relationship Between Crime and Adult Business Operation on Garden Grove Boulevard	City of Garden Grove
Legislative record	City of Federal Way
Adult Entertainment Businesses in Indianapolis	City of Indianapolis
Study and Recommendations for Adult Entertainment Businesses in the Town of Islip	Town of Islip
Memo Regarding Zoning for Sexually Oriented Businesses	City of Kelso
Adult Use Zoning Study	City of Kent
Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles	City of Los Angeles
Adult Entertainment Study, and Report on the Secondary Effects of the Concentration of Adult Use Establishments in the Times Square Area	New York

Report of the Attorney General’s Working Group on the Regulation of Sexually Oriented Businesses	Minnesota
Legislative Report on Zoning Regulations of Adult Oriented Businesses	City of Olympia
Adult Entertainment – a 40 acre Study	City of Saint Paul
Declarations from Karen Rel, Dr. Joseph Asterino, Ron Hansen, and Joseph C. Books; also testimony from Karen Roberts to the City Planning Commission	City of Spokane
News reports linking adult entertainment and human trafficking	Various
Declaration of Marilyn Petersen (City Clerk for the City of Renton) submitting exhibits given to the Renton City Council from Phillip Beckley	City of Renton
Declaration of Londi Lindell, City Attorney of Federal Way, submitting photographs from a magazine found by Bob Evans, discarded in a parking lot of an Adult Retail Establishment.	City of Federal Way
Declaration of Patricia C. Walker, Special Deputy Prosecuting Attorney for Spokane County, submitting copies of items citizens have found near adult entertainment facilities and testifying to negative secondary impacts	Spokane County
Declarations from Herbert Hall (customer of adult book stores), Officer Ricardo Bermudez, Officer Todd Elgin, Officer Gary Faust, Officer Mark Hutchinson and Declarations from the following persons describes as neighbors of A-Z Bookstore: Sherilyn Duarte, Lam-Son Trinh, Mr. and Mrs. Ron Foster, Erin K. Davis, Gary Adamson, Joe and Vera Moralez, Joe Keohane, and Buddy Allred, J. Gaynor	City of Garden Grove
Declaration from Officer DeVore regarding incident with suspects that met at R & R Adult Toys store.	City of Bellevue

A copy of each of the items listed in the table above are included as part of this report labeled as **Exhibits 1.1 to 1.28.**

At the Committee’s third meeting held on December 27, 2016 the Committee made a formal motion that the Committee finds that negative secondary impacts are associated with adult entertainment uses. The motion was unanimously passed by the committee

After reading, analyzing and discussing all of the above listed items the Committee identified ten distinct negative secondary impacts associated with adult entertainment uses that are listed below.

TABLE 1.2: SECONDARY NEGATIVE IMPACTS

SECONDARY NEGATIVE IMPACTS	
1.	Increased Incidence of Crime
2.	Creation of an Atmosphere for Crimes
3.	Declining Property Values
4.	Deterioration of Areas
5.	Incompatibility with Other Uses
6.	Negative Land Use Impacts
7.	Negative Impacts on Quality of Life
8.	Declining Tourism
9.	Human Trafficking Associations
10.	Harm to the Public's Health, Safety and Welfare

The accompanying **Exhibit D** contains a summary of each of the listed secondary negative secondary impacts and provides detailed information on the sources the committee relied upon in making this list of impacts.

B. SENSITIVE USES: Defined as uses that should be buffered from adult entertainment uses due to their sensitive nature and the high potential for secondary negative impacts. The following list of sensitive uses were chosen primarily because they are uses and/or areas where minor children and families are likely to congregate and be present.

TABLE 1.3: SENSITIVE USES IDENTIFIED BY THE COMMITTEE

SENSITIVE USE:	DEFINITION OF SENSITIVE USE:
PARKS	A tract of land owned or maintained by a public entity that is designated for and used by the public for active and passive recreational activities.
TRAILS	Linear shaped facilities designed and intended for the public to walk, run, or otherwise travel across that are owned or maintained by the City of Mount Vernon.
CHURCHES	Are buildings or structures, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.
SCHOOLS	Any building or part thereof designed, constructed, or used for formal educational uses that are recognized by the Washington state superintendent of public instruction. This definition includes both public and private schools.

CHILD CARE CENTERS	Are facilities that regularly provide child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.
LIBRARIES	Facilities that include organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.
BUSINESSES OR AREAS WHERE YOUTH ARE LIKELY TO BE PRESENT	Business or areas where children under the age of eighteen years are commonly present
RESIDENTIAL ZONES OR USES	Areas within the City limits and the City’s Urban Growth Areas (UGAs) that permit residential uses as either permitted, conditional or special uses. Also areas within the City limits and the City’s UGAs where uses that are primarily residential in nature exist

C. WHERE SHOULD ADULT ENTERTAINMENT USES BE LOCATED? Following the committee’s determination that there were negative secondary impacts associated with adult entertainment uses and after identifying land uses that, due to their nature, should be buffered from adult entertainment uses, the committee worked through the steps outlined below that eventually determined the geographic area within the City where they felt adult entertainment uses should be located.

- 1. IDENTIFIED GEOGRAPHIC AREAS WHERE ADULT ENTERTAINMENT USES WOULD/SHOULD NOT BE ALLOWED.** The City is comprised of nineteen distinct zoning districts. The table below identifies each of these districts and indicates where this district was removed from consideration – or not – as the first step in the committee’s process.

TABLE 1.4: CITY ZONING AND COMMITTEE’S INITIAL DETERMINATIONS

ZONE	REMOVED OR NOT – REASONS WHY
Single-Family Residential (R-1)	Removed from consideration, commercial uses not allowed and proximity to neighborhoods with families and minor children. Infrastructure serving existing developed residential areas not sufficient to provide adequate level of service for commercial uses.
Two-Family Residential (R-2)	Removed from consideration, commercial uses not allowed and proximity to neighborhoods with families and minor children. Infrastructure serving existing developed residential areas not sufficient to provide adequate level of service for commercial uses.

Multi-family Residential (R-3 and R-4)	Removed from consideration proximity to neighborhoods with families and minor children. Infrastructure serving existing developed residential areas not sufficient to provide adequate level of service for commercial uses.
Residential Agricultural (R-A)	Removed from consideration, commercial uses not allowed and proximity to neighborhoods with families and minor children. Infrastructure serving existing developed residential areas not sufficient to provide adequate level of service for commercial uses.
Public (P)	Removed from consideration due uses allowed within Public zones; such as, schools, churches and parks where families congregate with minor children.
Residential Office (R-O)	Removed from consideration due uses allowed within Public zones; such as, schools, churches and parks where families congregate with minor children.
Health Care Development (H-D)	Removed from consideration due uses allowed within the Health Care Development District, mainly the public hospital and medical clinics where families and minor children regularly are present.
Professional Office (P-O)	Not removed from initial consideration.
Mobile Home Park (MHP)	Removed from consideration, commercial uses not allowed and proximity to neighborhoods with families and minor children. Infrastructure serving existing developed residential areas not sufficient to provide adequate level of service for commercial uses.
Central Business (C-1)	Removed from consideration because residential uses are allowed within this zone and with residential uses there is proximity to neighborhoods with families and minor children.
General Commercial (C-2)	Not removed from initial consideration.
Community Commercial (C-3)	Removed from consideration because residential uses are allowed within this zone and with residential uses there is proximity to neighborhoods with families and minor children.
Neighborhood Commercial (C-4)	Removed from consideration because residential uses are allowed within this zone and with residential uses there is proximity to neighborhoods with families and minor children.
Limited Commercial (LC)	Not removed from initial consideration.
Commercial/Limited Industrial (C-L)	Not removed from initial consideration.
Light Manufacturing and Commercial (M-1)	Not removed from initial consideration.

Industrial District (M-2)	Not removed from initial consideration.
Floodplain District (F-1)	Removed from consideration because structures are not allowed within this district.

Map 2.1 (on the following page) identifies the areas listed within **TABLE 1.4** (above) that were either removed or not removed from further consideration by the committee.

- 2. BUFFERED EXISTING SENSITIVE LAND USES.** Due to the negative secondary impacts from adult entertainment uses the second step the committee took was to apply buffers around the sensitive uses that were previously identified by the Committee.

Table 1.3 lists the sensitive uses the committee identified that includes: parks, trails, churches, schools, child care centers, libraries, businesses or areas where youth are likely to be present and residential zones or uses.

To determine the size of the buffer between the identified sensitive uses and potential adult entertainment uses the committee analyzed buffers that other jurisdictions had adopted into their development regulations. **TABLE 1.5** (below) lists the buffers from other jurisdictions.

TABLE 1.5: ADULT ENTERTAINMENT USE BUFFERS FROM OTHER JURISDICTIONS

	SENSITIVE USES	OTHER ADULT USES
EVERETT	250'	1000'
FEDERAL WAY	1000'	1000'
KELSO	600'	NA
KENNEWICK	500'	1500'
KING COUNTY	300'	3000'
MUKILTEO	800'	500'
OAK HARBOR	750'	NA
VANCOUVER	1000' 500' residential districts	NA
SNOHOMISH COUNTY	330' and 660' (depending on adult use)	660'
THURSTON COUNTY	330'	NA

After evaluating the buffers from other jurisdictions the committee evaluated two different buffer sizes. The first buffer was 650 feet; this was chosen because the average block length in Mount Vernon is 325 linear feet, which means that 650 feet would be equivalent to two (2) Mount Vernon city blocks. The second buffer was 1,000 feet; this was chosen because it equates to approximately three (3) city blocks and it also equates to an approximate five (5) minute walking distance for the average adult¹

City staff created maps that identified both 650 and 1,000 foot buffers around the sensitive uses listed within **Table 1.3** that the Committee examined and discussed at their February 21, 2017 meeting. After much discussion the committee decided that a 1,000-foot buffer, in most cases, would be most effective with keeping negative secondary impacts away from the identified sensitive uses.

3. **SELECTED C-L ZONING SOUTH OF ANDERSON ROAD AND WEST OF I-5.** After the 1,000 foot buffer was selected the committee was able to take a closer look at **Map 2.3** to determine where adult entertainment uses should be located. The committee found there were two (2) distinct pockets of commercial and industrial zoned property outside of the sensitive use buffers within the zoning districts the committee identified as remaining for consideration (these zoning determinations are summarized in **Table 1.4**).

The first area that was evaluated is shown on **Map 2.3** and is generally located on both sides of East College Way from the Interstate-5 south bound off-ramp extending east to almost Continental Place. The committee decided not to consider this geographic area as a place to potentially locate adult entertainment uses for two (2) primary reasons: 1) this area is in close proximity to commercial and retail uses frequented by minor children and their families (for example, Coastal Farms, Round Table Pizza, Denny's, Starbucks, Big Scoop Restaurant, Rite Aid, JoAnn Fabric, 24 Hour Fitness, Whidbey Island and Opus Banks, Taco Time, and many more); and 2) the City adopted into its 2016 Comprehensive Plan Goals, Objectives and Policies that direct the City to adopt development regulations to encourage mixed use zoning; and this area of the City would be an ideal area to potentially allow new residential uses to locate in the future.

The second area that was evaluated is shown on **Map 2.4** and represents that area that the committee decided that adult entertainment uses would be allowed within because it is zoned such that new residential uses are not allowed, it is (but for limited instances²) located outside of the 1,000-foot buffer areas the committee placed around sensitive uses, and last the uses allowed within this area are much less likely to have minor children and their families frequenting them as compared to other commercial uses within the City.

¹ At 3 miles per hour a person is able to walk 1,320 linear feet in five (5) minutes.

² There are two 1,000 buffers that encroach into the final area selected by the committee to allow adult entertainment uses that the Committee found could be reduced from 1,000 feet to 700 feet. These buffers originate from uses located on the opposite side of Interstate-5 and Henson Road. The Committee found that being separated by two major road systems (I-5 and Henson) allows the 1,000 buffers from the two identified sensitive uses to be reduced to 700 feet.

FINDINGS, CONCLUSIONS, & RECOMMENDATIONS

1. The committee finds that the following list of Secondary Negative Impacts occur when adult entertainment uses are located within a community. As such, the Committee concludes there is a need to mitigate these secondary negative impacts.

SECONDARY NEGATIVE IMPACTS	
1.	Increased Incidence of Crime
2.	Creation of an Atmosphere for Crimes
3.	Declining Property Values
4.	Deterioration of Areas
5.	Incompatibility with Other Uses
6.	Negative Land Use Impacts
7.	Negative Impacts on Quality of Life
8.	Declining Tourism
9.	Human Trafficking Associations
10.	Harm to the Public's Health, Safety and Welfare

2. The Committee finds that the following list of sensitive uses need to be protected from the negative secondary impacts associated with adult entertainment uses. As such, the committee concludes that these Sensitive Uses should be separated from adult entertainment uses by a minimum distance of 1,000 feet with the exception of the two buffers originating from sensitive uses on the east side of Interstate-5 and Henson Road that will be reduced to 700 feet because they are separated by the Interstate and an additional public road.

SENSITIVE USES	
1.	Parks
2.	Trails
3.	Churches
4.	Schools
5.	Child Care Centers
6.	Libraries
7.	Businesses/Areas where Youth are Likely to be Present
8.	Residential Zones and Uses

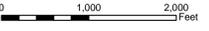
3. The Committee finds that the geographic area shown on **Map 2.5** has the least potential impacts to the sensitive uses identified by the Committee. As such, the Committee recommends that be the area of the City that adult entertainment uses are limited to.



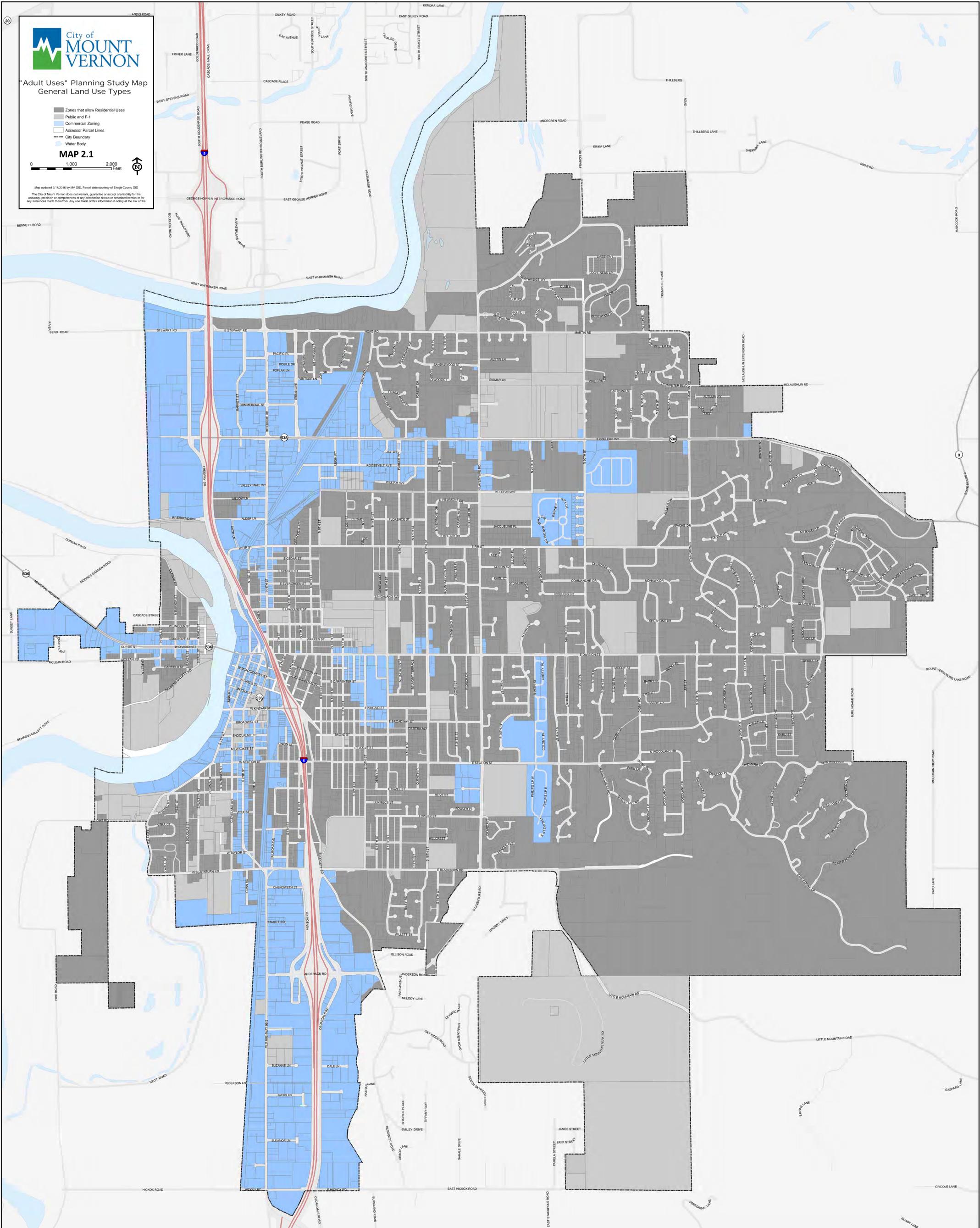
"Adult Uses" Planning Study Map General Land Use Types

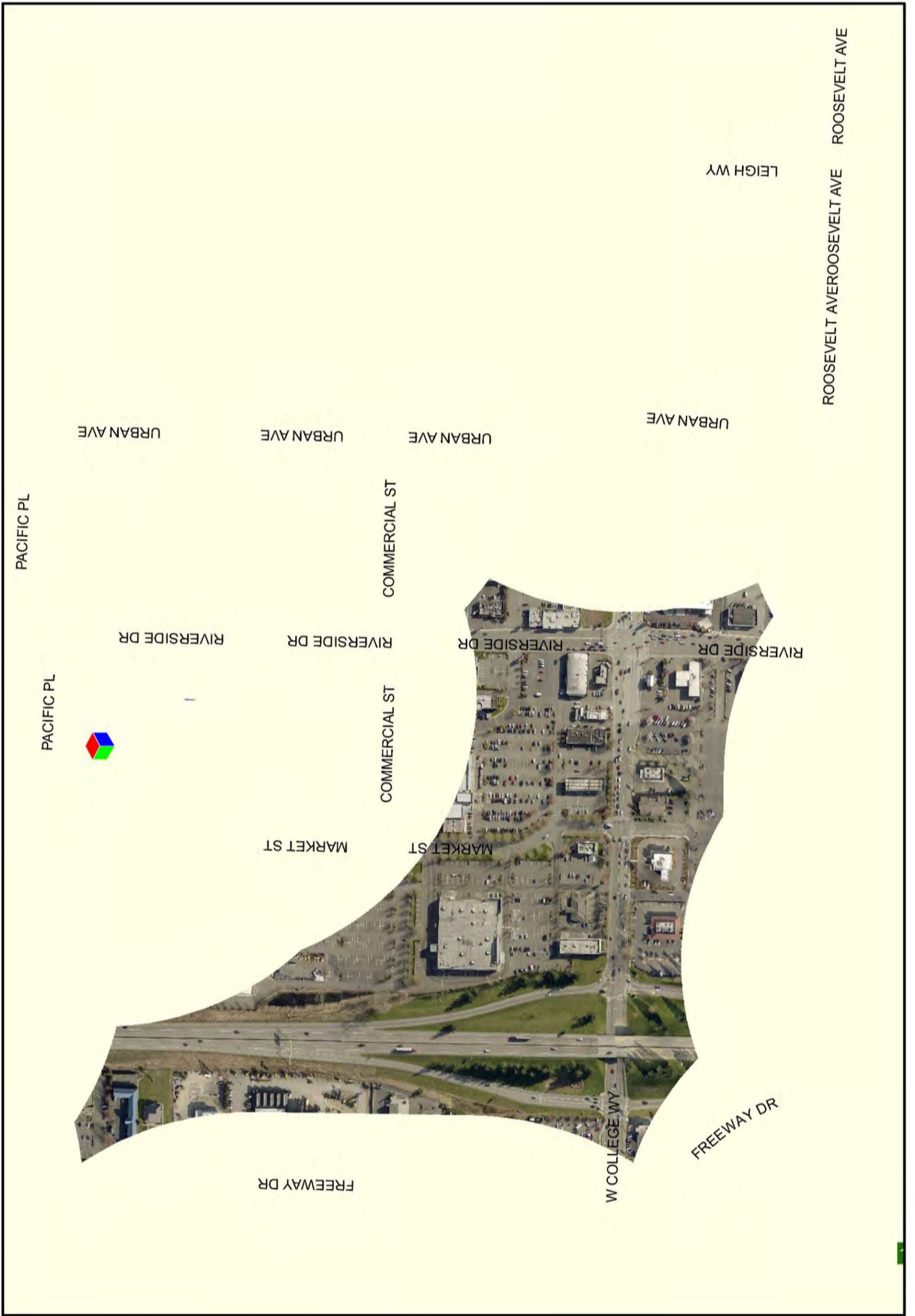
- Zones that allow Residential Uses
- Public and F-1
- Commercial Zoning
- Assessor Parcel Lines
- City Boundary
- Water Body

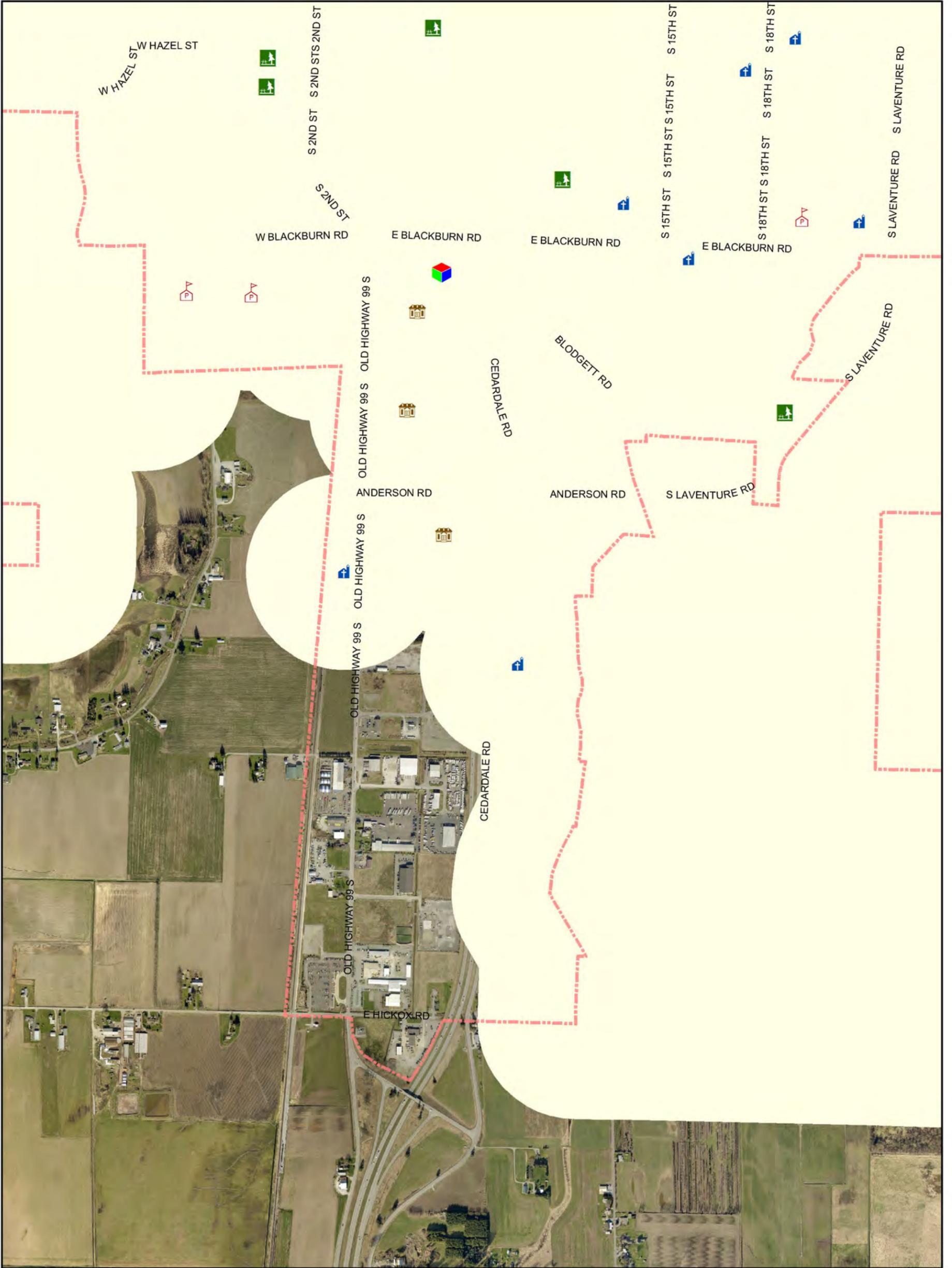
MAP 2.1

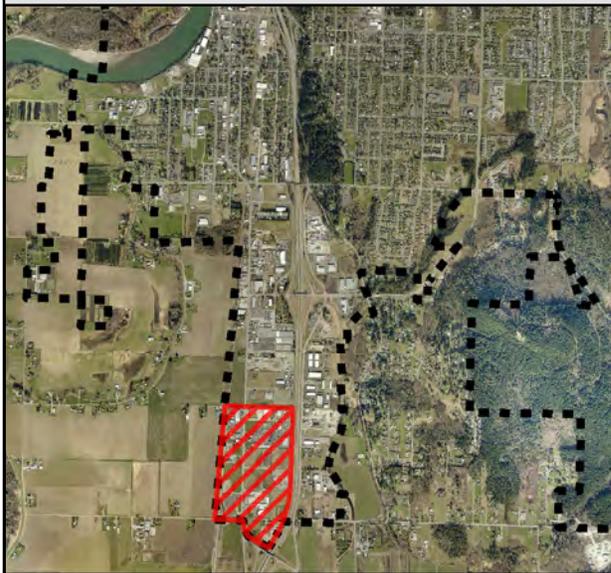
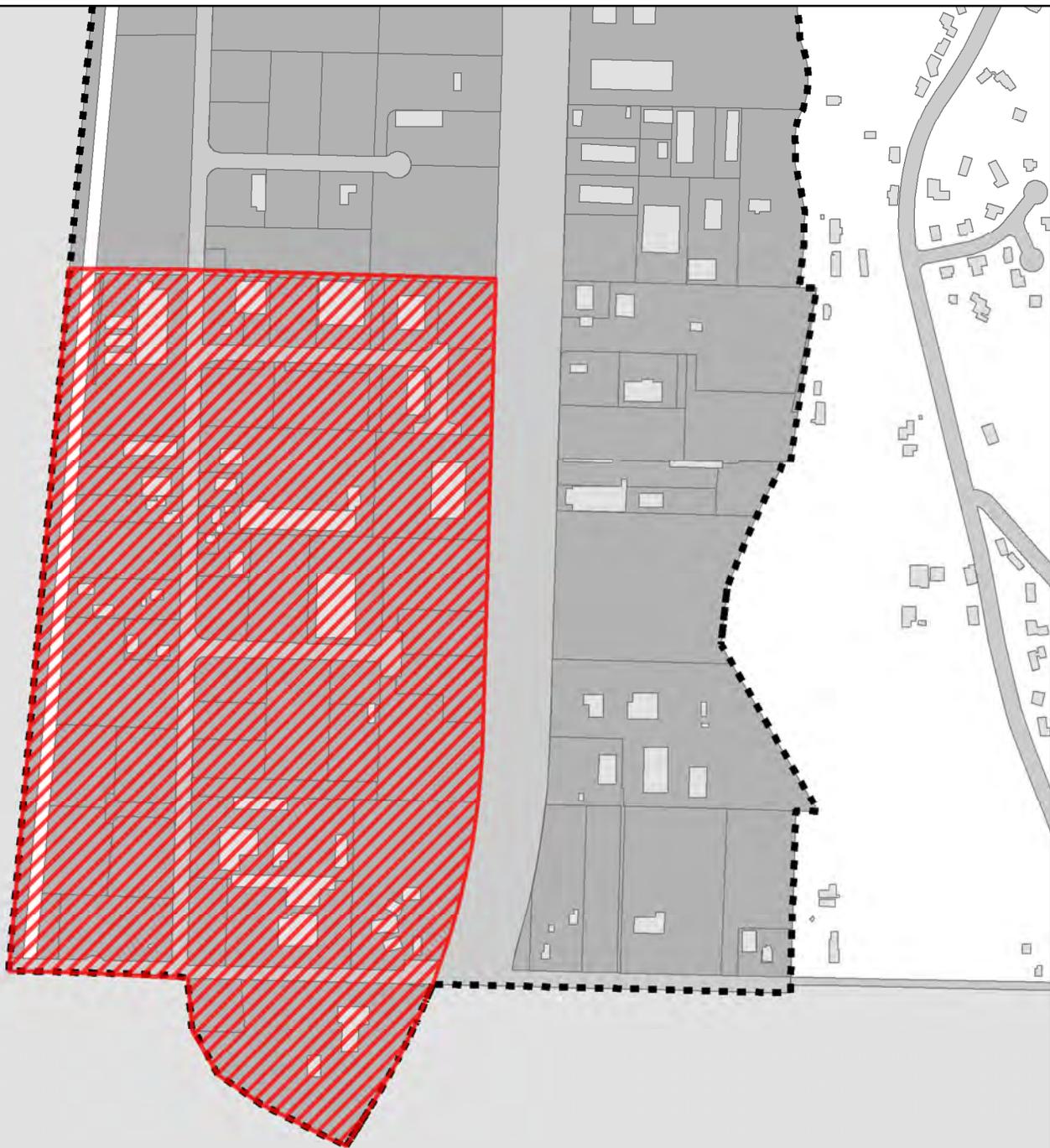


Map updated 2/17/2016 by MV GIS. Parcel data courtesy of Skagit County GIS
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Location for Adult Entertainment Site

-  Uses/Businesses Can Be Permitted
-  CITY

MAP 2.5



APPENDIX A

ORDINANCE 3698

ORDINANCE 3699

RESOLUTION 920

ORDINANCE NO. 3698

AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON, ENACTING INTERIM LICENSING AND ZONING REGULATIONS REPEALING AND RE-ENACTING CHAPTER 5.13 OF THE MOUNT VERNON MUNICIPAL CODE, ADDING A NEW CHAPTER 5.06 OF THE MOUNT VERNON MUNICIPAL CODE RELATING TO ADULT BUSINESS LICENSES, EMPLOYEES, AND ADOPTING REGULATIONS AMENDING MOUNT VERNON MUNICIPAL CODE TITLE 17; AND DECLARING AN EMERGENCY NECESSITATING IMMEDIATE ADOPTION OF INTERIM CONTROL REGULATIONS FOR THE ZONING, LICENSING AND REGULATION OF ADULT ENTERTAINMENT

WHEREAS, cities have the right and duty to enact laws for the protection of the public health, safety, general welfare, economic vitality and economic growth, and morals; and

WHEREAS, the City of Mount Vernon was incorporated in 1890, is a non-charter code city organized under Title 35A of the revised code of Washington with a population of thirty three thousand three hundred and fifty persons over twenty seven percent of which are under the age of 18. The City is largely defined by the Skagit River to north and east, a number of streams, some salmon bearing, and lower Skagit Valley agricultural lands which surround parts of the City. As stated in the City's comprehensive plan, one of the City's primary goals is to maintain, enhance, or establish those elements that create the quality of life for its residents by providing a rural, natural setting with small town character and community atmosphere; and

WHEREAS, the City's Comprehensive Plan was last updated on September 14, 2016 and provides in part for the following as goals and policies of the City to help protect the public health, safety, welfare, morals and economic vitality and growth of the City:

1. **GOAL LU-5** Enhance and improve the quality of single-family living environments throughout the city.
2. **POLICY LU-1.2.1** Provide development regulations that create a compatible pattern of development within established neighborhoods. the development standards shall address densities, building setbacks, parking and landscaping
3. **POLICY LU-8.2.6** Development should be designed to mitigate potential adverse impacts on adjacent properties with different zoning designations (i.e., residential or public zoning). careful consideration of impacts from lighting, landscaping, and setbacks should all be evaluated during site design
4. **GOAL LU-9:** To minimize potential noise impacts to the surrounding residential neighborhood all non-residential uses should be closed for business at reasonable times.
5. **GOAL LU-10:** Development regulations shall be adopted to reduce the negative visual, noise, odor, and exhaust impacts from garbage and recycling receptacles, loading docks, and drive through lanes
6. **HOUSING ELEMENT GOAL 1.** Promote the preservation, maintenance and enhancement of existing housing and residential neighborhoods throughout the city.

7. HEALTH AND WELLNESS ELEMENT GOAL HW-2. Improve the safety of neighborhoods and public spaces.

WHEREAS, extensive evidence has been presented to the City Council showing that the establishment and locations of adult entertainment businesses and related adult entertainment activities is associated with increased crime and/or depreciated property values, and is antithetical to the public health, welfare, safety, morals and economic vitality and growth of the community. For example, locally, Olympia, Seattle, Federal Way, Des Moines, Kelso, Everett, Snohomish County, Bellevue, among other Western Washington cities, towns and communities, have all concluded that this is the case. Nationally, studies and/or statistics from New Orleans, Denver, New York, Cleveland, Los Angeles, Louisville, Jefferson Parish Louisiana, and jurisdictions within Texas among other communities across the nation, have been cited as showing that adult entertainment businesses and activities are associated with increased crime and create nuisances that are contrary to the public health, safety, welfare, morals and economic vitality and growth of the community; and

WHEREAS, the evidence presented demonstrated that increases in crimes and types of crime involving prostitution, narcotics, sex-related crimes, and other disruptive behavior are either directly related to or associated with adult entertainment businesses and activities; and

WHEREAS, extensive evidence presented establishes that the establishment of adult entertainment businesses and their related activities is directly related to or associated with a decline in property values of nearby properties. For example, locally, Kent, Seattle, Des Moines, Bellevue, Olympia and Everett have all concluded that this is the case. Nationally, studies and/or statistics from, for example, Denver, Indianapolis, and New York have been cited as showing that adult entertainment businesses are directly related to or associated with decline in property values; and

WHEREAS, the evidence presented demonstrates that negative land use impacts including noise, trash, and traffic problems are directly related to or associated with adult entertainment businesses and their related activities; and

WHEREAS, extensive evidence presented establishes that the establishment of adult entertainment businesses and related activities is associated with a degradation of the quality of life within nearby neighborhoods and the community in general; and

WHEREAS, Over 27% of Mount Vernon's population is under the age of 18 and there is a compelling need to protect minors from criminal and unlawful activities, and their adverse secondary effects, associated with adult entertainment businesses, uses and activities; and

WHEREAS, at this time Mount Vernon has no licensing regulations regarding the operation of any sexually oriented adult entertainment business, and the City's current zoning regulations are old and out of date, do not conform to current legal standards or

judicial allowances for such regulations, have limited effectiveness and application, and only proscribe distance requirements from other sensitive uses; and

WHEREAS, the Mayor of Mount Vernon has established an “Adult Entertainment Zoning and Licensing Committee” made up of citizens and city staff who will conduct a comprehensive review of the City’s current and outdated and limited adult entertainment regulations, zoning and licensing requirements, and report to the Planning Commission in January 2017 with recommendations regarding licensing and zoning regulations for adult entertainment businesses; and

WHEREAS, there is reason to believe that there is increased interest in locating sexually oriented adult entertainment businesses in the City of Mount Vernon as evidenced by recent inquiries regarding the establishment of adult retail stores and establishments who have a history of serving the public in dress that violates the City’s current Lewd Conduct regulations; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390, as well as interpretative judicial decisions, authorize adoption of interim zoning controls and regulations with certain limitations, including the requirement to hold a public hearing on the adopted interim zoning controls/regulations within 60 days of its adoption, and the adoption of findings of facts and, if appropriate, a work plan; and

WHEREAS, in accordance with RCW 35A.63.220, interim zoning controls may be effective for no longer than six months, but may be effective for up to a year if a work plan is developed for related studies providing for such a longer period, and

WHEREAS, there is an urgent need, pending completion of the Adult Entertainment Zoning and Licensing Committee’s work and the adoption of permanent zoning and regulatory ordinances and licensing requirements, to adopt interim regulatory ordinances regarding adult entertainment businesses and sexually oriented adult entertainment uses to address the well-recognized and documented adverse secondary impacts of such businesses, uses and activities while allowing reasonable opportunities for sexually oriented adult entertainment businesses to locate and conduct their businesses within the City; and

WHEREAS, staff has prepared a draft interim licensing ordinance which is supported by the legislative records provided herein.

WHEREAS, the City Council shall after appropriate public notice, hold a public hearing on December 7th, 2016 at a regularly held meeting of the City Council on this Ordinance to consider public testimony regarding adoption of this Ordinance and adopt findings of fact justifying its action in the event such findings are not adopted prior to the hearing; and

WHEREAS, the Council has adopted a work plan pursuant to RCW 35A.63.220 and RCW 36.70A.390 which includes multiple public hearings following public notices to

complete the adoption of permanent zoning and regulatory ordinances regarding adult entertainment businesses and sexually oriented adult entertainment uses; and

WHEREAS, the City on October 17, 2016 conducted a planning report with appendices providing a land use analysis and buildable lands analysis to study where there may be reasonable opportunities for sexually oriented adult businesses to locate while minimizing secondary impact to such uses identified as item 16 in the City's Legislative Record and adopts the study as further support of this Interim Control Ordinance; and

WHEREAS, the City Council finds that the regulations, modifications and amendments contained in this Interim Control Ordinance are appropriate and necessary for the preservation of the public health, safety, welfare, economic vitality and continued economic growth of the City, and to protect Mount Vernon citizens from the adverse secondary impacts of sexually oriented adult entertainment businesses, uses and activities, while allowing reasonable opportunities for sexually oriented adult entertainment businesses to locate and conduct their businesses within the City;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNT VERNON, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. Findings

That the City Council adopts the recitals set forth above as findings of fact justifying adoption of this Interim Control Ordinance and incorporates those recitals as if set forth fully herein. The Council may adopt additional findings in the event that additional public hearings are held or evidence presented to the City Council. The City Council makes the following additional findings in support of the adoption of this Interim Control Ordinance based on the testimony and evidence presented:

1. The City Council takes legislative notice of the evidence of conduct, activities and crimes occurring in and around adult entertainment businesses located in other jurisdictions, which the Council hereby deems to be relevant to the experience in Mount Vernon, as reported in judicial opinions including for example, but not limited to, *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986), *Ino Ino, Inc. v. City of Bellevue*, 132 Wn.2d 103 (1997), *DCR, Inc. v. Pierce County*, 92 Wn.App. 660 (1998) and *Colacurcio v. City of Kent*, 163 F.3d 545 (9th Cir. 1998);
2. The City Council takes legislative notice of the evidence of conduct, activities and crimes occurring in and around adult entertainment businesses located in other jurisdictions, which the Council hereby deems to be relevant to the experience in Mount Vernon,, as reported in the studies and findings of other city and county legislative bodies that have also adopted ordinances regulating adult entertainment businesses, including by way of example, but not limited to, the cities of Olympia, New Orleans, Seattle, Federal Way, Des Moines, Kelso, Everett, Snohomish County, Bellevue, and jurisdictions within Texas.
3. The operation of adult entertainment businesses has historically and regularly been accompanied by secondary effects that are detrimental to the public health, safety,

morals, economic vitality and growth, and general welfare of the citizens of Mount Vernon. Such secondary effects include, by way of example but not limited to the following:

- a. Significant criminal activity and activities injurious to the public health, safety, morals, economic growth and vitality, and general welfare of the community;
- b. Detrimental effects on nearby businesses and residential areas; and
- c. A decline in property values in the area of the adult entertainment businesses.
- d. The history of criminal and injurious activity includes without limitation prostitution, narcotics and liquor law violations, breaches of the peace, assaults, employment or involvement of minors, sexual conduct between customers or between customers and entertainers, the opportunity for the spread of sexually transmitted diseases and the presence within the industry of individuals with hidden ownership interests and outstanding arrest warrants.

Accordingly, there is a compelling need and interest to regulate adult entertainment businesses as provided in this ordinance to protect and promote the public health, safety, morals and general welfare of the citizens of Mount Vernon.

4. The resources available for responding to problems associated with adult entertainment businesses are limited and are most efficiently and effectively utilized through appropriate zoning and a licensing and regulatory program.
5. The license fees required in this ordinance are necessary as reasonable fees imposed to help defray the costs of processing the license applications and the substantial expenses incurred by Mount Vernon in regulating the adult entertainment industry. License requirements set forth in this ordinance are necessary to detect and discourage the involvement of organized crime in the adult entertainment industry, to prevent the exploitation of minors, to assure the correct identification of persons working in adult entertainment businesses, to effectively deploy its limited law enforcement resources and in order to effectively protect the public health, safety, morals and general welfare of its citizenry, the City must be fully apprised of the identity, age and criminal background of managers in adult entertainment businesses.
6. It is necessary to have a licensed manager on the premises of an adult entertainment business during all hours of operation so there will be a person responsible for the overall operation of the business, including the actions of customers, entertainers and other employees. To monitor the actions of these individuals, a manager must be able to observe these individuals at all times.
7. To prevent the exploitation of minors, to assure the correct identification of persons working in adult entertainment businesses, to effectively deploy its limited law enforcement resources and to effectively protect the public health, safety, morals, economic vitality and growth and general welfare of its citizenry, the City must be fully apprised of the identity, age and criminal background of entertainers in adult clubs.

8. Sexually oriented adult entertainment uses are directly related to or associated with increased rates of crime including but not limited to, prostitution, narcotics, and sex-related crimes.
9. Sexually oriented adult entertainment uses are directly related to or associated with declines in property values, especially those of residential areas.
10. Sexually oriented adult entertainment uses are directly related to or associated with degradation of the quality of life within a neighborhood.
11. Exposure of sexually oriented adult entertainment uses may be particularly harmful to children and minors creating serious adverse effects on their development as mature, disciplined, and social members of the community. This is of particular concern in the City of Mount Vernon where over 27% of the population is under 18 years of age.
12. Numerous other jurisdictions have attempted to address these adverse secondary effects by regulations which limit the zones in which sexually oriented adult entertainment uses are allowed and create buffers around such uses. The City of Mount Vernon relies on the validation of these methods by the United States Supreme Court, including in Renton v. Playtime Theater and Young v. American Mini Theaters, and by the Washington State Supreme Court in Northend Cinemas v. Seattle, which recognize local governments legitimate interest in protecting and preserving the quality of life through effective land use planning.
13. Areas within close walking distance of single and multiple family dwellings should be free of sexually oriented adult entertainment land uses.
14. Areas where children could be expected to walk, patronize or recreate should be free of sexually oriented adult entertainment land uses.
15. Sexually oriented adult entertainment land uses should be located in areas of the City which are not in close proximity to residential uses, churches, parks, trails, schools, child care facilities, libraries, game arcades and other similar facilities or uses.
16. Sexually oriented adult entertainment land uses should be regulated by zoning to separate them from other dissimilar uses just as any other land use should be separated from uses with characteristics different from and incompatible with itself.
17. A reasonable time, place, manner regulation of sexually oriented adult entertainment businesses and land uses will provide for the protection of the community and its property values, and protect the residents of the community from the adverse effects of such sexually oriented adult entertainment land uses, while providing those who desire to patronize sexually oriented adult entertainment land uses such an opportunity in areas within the City which are appropriate locations of sexually oriented adult entertainment businesses and land uses;
18. Data and studies provided by staff and/or consultants have identified those areas within the City of Mount Vernon that are appropriate for location of sexually oriented adult entertainment businesses and land uses, and these studies and this data establish sufficient number of proposed sites reasonably available to adult entertainment businesses to meet existing and demonstrated demand for adult entertainment venues in the City.

19. At this time Mount Vernon has no licensing regulations regarding the operation of most sexually oriented adult businesses, and the City currently has limited or outdated or ineffective zoning regulations which give rise to an urgent need pending completion of the Adult Entertainment Zoning and Licensing Committee's work and the adoption of permanent zoning and regulatory ordinances to adopt interim regulatory ordinances regarding adult entertainment businesses and sexually oriented adult entertainment uses to address the adverse secondary impacts of such businesses and uses while still allowing reasonable opportunities for sexually oriented adult entertainment businesses to locate and conduct their businesses within the City.
20. City recently awarded a bid to complete the City's downtown flood protection project in 2017 which, once completed, shall remove large areas of the City from the 100 year FEMA regulated floodplain, and this will likely trigger an increase in interest and redevelopment of the City's historical downtown. Absent further interim regulation, such development could include sexually oriented adult entertainment businesses to locate and conduct their businesses within this historic area of the City which is characterized as mixed commercial and residential uses where people of all ages congregate including but not limited to the City's new riverfront public plaza and river trail system.
21. The City has made significant changes to its comprehensive plan including completion of its comprehensive plan review mandated under Washington State's Growth Management Act, RCW 36.70A.130.
22. Since the City's adoption of limited zoning regulations permitting adult entertainment businesses to locate in certain areas of the City in 1995, over twenty years ago, large annexations of property have occurred as well as changes to the City's comprehensive plan and development regulations have occurred which include allowing further mixed use commercial and single or multifamily residential uses in areas of the City (including but not limited to its historic downtown) where adult entertainment is currently allowed making it possible for an adult entertainment business to be sited near, adjacent, or within the same structure as single and multiple family dwellings.
23. Proximity between entertainers and customers in adult clubs and businesses facilitates sexual conduct, prostitution, transactions involving controlled substances and other crimes.
24. To prevent sexual conduct from occurring between entertainers and customers, customers must be prohibited from any stage where adult entertainment occurs and be prohibited from passing tips, gratuities or other payments directly to entertainers performing on stage.
25. To discourage customers of bars and other alcohol-serving businesses from moving to adult entertainment businesses at two a.m. for "after hours" activities, and the increased likelihood of breaches of the peace and other criminal conduct that arise from those customers, and to reduce the adverse secondary effects of adult entertainment businesses on minors and the community, it is necessary and reasonable to restrict the closing time of adult entertainment businesses.

SECTION 2. New Section. A new Chapter 5.06, Adult Entertainment Dance Studios, Adult Entertainers and Adult Entertainment Dance Studio Managers is added to the Mount Vernon Municipal Code as follows:

**ADULT ENTERTAINMENT DANCE STUDIOS, ADULT ENTERTAINERS AND
ADULT ENTERTAINMENT DANCE STUDIO MANAGERS**

Sections:

- 5.06.010 General provisions.**
- 5.06.020 Definitions.**
- 5.06.030 Adult entertainment dance studio license required.**
- 5.06.040 Prima facie evidence of adult entertainment dance studio.**
- 5.06.050 Adult entertainment dance studio license -- Application, issuance.**
- 5.06.060 Other licenses/permits not waived.**
- 5.06.070 Adult entertainment dance studio license --Renewal.**
- 5.06.080 License for managers and adult entertainers required.**
- 5.06.090 Manager's and adult entertainer's license -- Application, issuance.**
- 5.06.100 Manager's or adult entertainer's license -- Renewal.**
- 5.06.110 Adult entertainment dance studio regulations.**
- 5.06.112 Manager on premises.**
- 5.06.115 Additional requirements for adult entertainment dance studios.**
- 5.07.117 Standards of conduct.**
- 5.06.120 Inspections.**
- 5.06.125 Activities not prohibited -- Liquor licenses.**
- 5.06.130 Enforcement.**
- 5.06.135 Suspension and revocation.**
- 5.06.140 Disclaimer.**
- 5.06.150 Civil penalties.**
- 5.06.160 Criminal penalties.**
- 5.06.170 Public nuisance.**
- 5.06.180 Nonexclusive remedies.**
- 5.06.190 Severability.**

5.06.010 General provisions.

Unless specified otherwise in this chapter, the general provisions contained in chapter 5.01 MVMC shall not apply to the licenses required under this chapter.

5.06.020 Definitions.

For the purpose of this chapter the words and phrases used in this section shall have the following meanings unless the context otherwise requires:

A. "Adult entertainment" means:

1. Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance involves a person who is unclothed or in such costume, attire or clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic

- region, anus, buttocks, vulva or genitals, or wearing any device or covering exposed to view which simulates the appearance of any portion of the female breast, pubic region, anus, buttocks, vulva or genitals, or human male genitals in a discernibly turgid state, even if completely covered; or
2. Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to the following specified sexual activities:
 - a. Human genitals in a state of sexual stimulation or arousal;
 - b. Acts of human masturbation, sexual intercourse or sodomy; or
 - c. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts; or
 3. Any exhibition, performance or dance intended to sexually stimulate any patron and conducted in a premises or part of a premises where such exhibition, performance or dance is performed for, arranged with or engaged in with fewer than all patrons on the premises at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance. For purposes of example only and not limitation, such exhibitions, performances or dances are commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.
- B. "Adult entertainer" means any person who provides live adult entertainment within an adult entertainment dance studio as defined in this section whether or not a fee is charged or accepted for such entertainment.
- C. "Adult entertainment dance studio" means any business, premises or location to which any member of the public is invited or admitted and where adult entertainment is provided on a regular basis as a substantial part of the premises activity.
- D. "Applicant control person" means: (1) if a sole proprietorship, the sole proprietor; (2) if a non-publicly held partnership, whether general or limited, each partner and their respective ownership interest; or (3) if a non-publicly held corporation, every officer, director, shareholder owning 51% or more interest and any shareholder owning 50% or less who hold a significant interest in the business based on responsibility for management.
- E. "Employee" means any and all persons, including manager and adult entertainers, who work in or at or render any services directly related to the operation of an adult entertainment dance studio, regardless of whether that person is deemed statutory employee, common law employee or independent contractor.
- F. "Manager" means any person who manages, directs, administers, controls or is in charge of, the affairs and/or the conduct of any portion of any activity involving adult entertainment occurring at any premises offering adult entertainment.
- G. "Member of the public" means any customer, patron, club member, or person, other than an employee as defined in this section, who is invited or admitted to an adult entertainment dance studio.

- H. "Operator" means any person operating, conducting or maintaining an adult entertainment dance studio.
- I. "Person" means any individual, partnership, firm, joint stock company, corporation, association, trust, estate, limited liability company, limited liability partnership or other legal entity, however organized.
- J. "Sexual conduct" means acts of: (a) sexual intercourse within its ordinary meaning; or (b) any contact between persons involving the sex organs of one person and the mouth or anus of another; or (c) masturbation, manual or instrumental, of oneself or of one person by another; or (d) touching of the sex organs or anus, of oneself or of one person by another.
- K. "Licensing authority" means the Finance Director of the City of Mount Vernon or any duly authorized representative.

5.06.030 Adult entertainment dance studio license required.

No person shall operate an adult entertainment dance studio without a valid adult entertainment dance studio license issued by the licensing authority.

5.06.040 Prima facie evidence of adult entertainment dance studio.

It shall be prima facie evidence that a business is an adult entertainment dance studio when one or more adult entertainers displays or exposes any portion of the breast below the top of the areola or any portion the pubic region, anus, buttocks, vulva and/or genitals.

5.06.050 Adult entertainment dance studio license -- Application, issuance.

- A. Application for an adult entertainment dance studio license shall be made to the licensing authority on a form prepared and made available by the licensing authority, which forms may be revised from time to time.
- B. An application for an adult entertainment dance studio license shall be signed by the applicant and shall contain or set forth the following information:
 - 1. The name, any aliases or previous names, address, telephone number, driver's license number, if any, social security number, if any and principal occupation, and age of the applicant and each applicant control person;
 - 2. The name, address, and principal occupation of the managing agent or agents of the business;
 - 3. For the applicant and each applicant control person, list any other licenses currently held for similar adult entertainment or sexually oriented businesses, including motion picture theaters and panorams, as defined in MVMC 17.72.130, whether from the county or another city, county or state, and the names and addresses of each licensed business;
 - 4. For the applicant and each applicant control person, list prior licenses held for similar adult entertainment or sexually oriented businesses, whether from the county or from another city, county or state, providing the names,

- addresses and dates of operation for such businesses, and whether any business license or adult entertainment license has been revoked or suspended, and the reason therefor;
5. For the applicant and all applicant control persons, list any and all criminal convictions or forfeitures within five years immediately preceding the date of 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 years immediately preceding the date of application;
 7. The business name, business address, and the business telephone number of the establishment or proposed establishment together with a description of the nature of the business and a scale drawing or diagram showing the configuration of the premises for the proposed adult entertainment dance studio, 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. An application for a license for an adult entertainment dance studio shall include building plans which demonstrate conformance with this chapter;
 8. Any applicant or applicant control person whose business is registered with the Washington Secretary of State shall submit a current certificate of good standing or certificate of existence that shows the business is active and up to date with state reporting requirements;
 9. The names, addresses, telephone numbers and principal occupation of every person, partnership, or corporation having any interest in the real or personal property utilized or to be utilized by the business or proposed business;
 10. Authorization for the City, its agents and employees to obtain information to confirm any statements set forth in the application;
 11. Each applicant shall verify, under penalty of perjury, that all of the information contained in the application is true, accurate and complete.
- C. The licensing authority may request other information or clarification when necessary to determine compliance with this chapter.
- D. Each application shall be accompanied by a non-refundable fee as follows:
1. Adult entertainment dance studio: \$350.00 per year
 2. Adult entertainer: \$55.00 per year
 3. Adult entertainment dance studio manager: \$55.00 per year
 4. The fee shall not be prorated.
- E. As soon as practicable following receipt of a completed application for an adult entertainment dance studio license, the licensing authority shall transmit copies of the application to the police chief, fire marshal, and department of community and development services for their investigation and review to determine compliance of the proposed adult entertainment dance studio with the laws and regulations which each department administers. Each department shall, within 25

days of the date of such application, inform the licensing authority in writing of the results of its investigation and review. No license may be issued unless each department reports that the application and premises comply with the relevant laws.

- F. Within 30 days of receipt of a fully completed application for an adult entertainment dance studio license and payment of the fee, the licensing authority shall issue the license, except that the licensing authority shall deny the application if issuance of a license will violate any provision of Chapter 5.06 MVMC, the zoning ordinance for the city, MVMC Title 17, or any other law or ordinance, or if the licensing authority determines that the applicant has made a false, misleading or fraudulent statement of material fact on the application for a license. A person aggrieved by denial of a license under this subsection may appeal the denial to the City hearing examiner. The appeal shall be filed and processed as set forth in MVMC 19.15.030 and MVMC 19.15.040
- G. An adult entertainment dance studio license shall expire on December 31 of the year in which it is issued.
- H. An adult entertainment dance studio license shall not be issued to any person under the age of 18 years.
- I. An adult entertainment dance studio 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 establishment.
- J. A license issued to an adult entertainment dance studio is not transferable to any person, entity or to any other business or property.
- K. It is the responsibility of the licensee issued a license under this section to keep the information on the license current at all times.
- L. The licensee shall notify the licensing authority of any change in address, business name, or in the officers, directors or partners of such business, within 14 days of any such change and shall supply the same information as required for an initial adult entertainment dance studio license application.

5.06.060 Other licenses/permits not waived.

(1) The issuance of an adult entertainment dance studio license shall not be construed or act as absolving the licensee of complying with the requirements of any governmental agencies, including, but not limited to, federal, state, city and county laws or ordinances relating to buildings, fire, health, sanitation, zoning, taxation, public safety, and all other requirements and conditions provided by law.

(2) The filing of an application for a license under this chapter shall not give the applicant the right to engage in the activity covered prior to the issuance of a license.

5.06.070 Adult entertainment dance studio license --Renewal.

An adult entertainment dance studio license may be renewed by following the application procedure set out in MVMC 5.06.050. It shall be the duty of the licensee to make application for renewal prior to the expiration of an outstanding license. An expired license shall not be automatically renewed and will only be renewed upon a renewal

application by the applicant following the procedure in MVMC 5.06.050. A decision of the licensing authority to deny an application for renewal shall be stayed and the prior license shall remain in effect during administrative and judicial review of that decision.

5.06.080 License for managers and adult entertainers required.

No person shall work as a manager or adult entertainer without a valid manager's or adult entertainer's license issued by the licensing authority.

5.06.090 Manager's and adult entertainer's license -- Application, issuance.

- A. Application for a manager's or adult entertainer's license shall be made to the licensing authority on a form prescribed by the licensing authority.
- B. An application for a manager's or adult entertainer's license shall contain or set forth the following information:
 - 1. The applicant's name, home addresses (current and former), home telephone number, date of birth, social security number, alias (past or present), and stage name;
 - 2. The business name and address where the applicant intends to dance or work;
 - 3. Authorization for the City, its agents and employees to investigate and confirm any statement set forth in this application.
- C. With the application the applicant shall present documentation that he or she has attained the age of 18 years. Any of the following shall be accepted as documentation of age:
 - 1. A motor vehicle operator's license issued by any state bearing the applicant's date of birth and photograph;
 - 2. An identification card issued by any governmental agency bearing the applicant's date of birth and photograph;
 - 3. An official passport issued by the United States of America;
 - 4. An immigration card issued by the United States of America.
- D. Each applicant shall be photographed.
- E. Each application shall be accompanied by a non-refundable fee as provided in MVMC 5.06.050 D. The fee shall not be prorated.
- F. Upon receipt of a completed application for a manager's or adult entertainer's license and proof of compliance with MVMC 5.06.090 D required by this chapter, the licensing authority shall issue the license. As soon as possible, following the issuance of a manager's or adult entertainer's license, the licensing authority shall transmit copies of the application and license to the Mount Vernon Police Department.
- G. A manager's or adult entertainer's license shall expire on December 31 of the year in which it is issued.
- H. A manager's or adult entertainer's license shall entitle a manager or adult entertainer to perform or work only at the location indicated on the manager's or adult entertainer's license. If a manager or adult entertainer changes his or her location where employed or performing during the license term, the license certificate must be returned to the licensing authority for reissuance, upon

payment of the fee set out in MVMC 5.06.050 D, indicating the new location of employment.

- I. A manager's or adult entertainer's license shall not be issued to any person under the age of 18.
- J. It is the responsibility of all managers and adult entertainers issued a license under this section to keep the information on their license current and accurate at all times.
- K. Each applicant shall verify, under penalty of perjury, that all of the information contained in the application is true, accurate and complete.

5.06.100 Manager's or adult entertainer's license -- Renewal.

A manager's or adult entertainer's license may be renewed by following the application procedure set out in MVMC 5.06.090. It shall be the duty of the licensee to make application for renewal prior to the expiration of an outstanding license.

5.06.110 Adult entertainment dance studio regulations.

- A. No person shall advertise, or cause to be advertised, an adult entertainment dance studio without a valid adult entertainment dance studio license issued pursuant to this chapter.
- B. No later than March 1 of each year an adult entertainment dance studio licensee shall file a verified report with the licensing authority showing the licensee's gross receipts for the preceding calendar year.
- C. An adult entertainment dance studio licensee shall maintain and retain for a period of two years the names, addresses, and ages of all adult entertainers and managers.
- D. No adult entertainment dance studio licensee shall employ as a manager or adult entertainer a person under the age of 18 years or a person not licensed pursuant to this chapter.
- E. No person under the age of 18 years shall be admitted to an adult entertainment dance studio.
- F. An adult entertainment dance studio shall be closed between 2:00 a.m. and 8:00 a.m.
- G. No adult entertainment dance studio licensee shall serve, sell, distribute, or suffer the consumption or possession of any intoxicating liquor or controlled substance upon the premises of the licensee.
- H. An adult entertainment dance studio license issued pursuant to this chapter shall be conspicuously displayed at the place of businesses during normal business hours.
- I. Manager and adult entertainer licenses issued pursuant to this chapter shall be maintained on the premises of the business during normal business hours.
- J. No adult entertainment shall be visible outside of the adult entertainment dance studio, nor any photograph, drawing, sketch or other pictorial or graphic representation which includes lewd matter as defined in RCW [7.48A](#) or display of sexually explicit material in violation of RCW [9.68.130](#).

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

5.06.112 Manager on premises.

- A. A licensed manager shall be on duty at an adult entertainment dance studio premises at all times that adult entertainment is being provided. The name of the manager on duty shall be prominently displayed during business hours.
- B. The licensed manager on duty shall not be an adult entertainer. It shall be the responsibility of the manager to verify that any employee or adult entertainer working or performing within the establishment possesses a current and valid employee's or adult entertainer's license as required by this chapter.
- C. The license manager shall not permit any violations of this chapter to occur.

5.06.115 Additional requirements for adult entertainment dance studios

Every adult entertainment dance studio shall be physically arranged in such a manner that:

- A. Performance Area. The performance area of the adult entertainment dance studio where adult entertainment is performed shall be a stage or platform at least 18 inches in elevation above the level of the patron seating areas, and shall be separated by a distance of at least 6 feet from all areas of the premises to which members of the public have access. A continuous railing three to five feet in height above the floor and located at least six feet from all points of the performance area shall separate the performance area and the patron seating areas. The stage and the entire portion of cubicles, rooms or stalls wherein adult entertainment is provided must be visible from the common areas of the premises and at least one manager's station. Visibility shall not be blocked or obstructed in any way by doors, curtains, drapes or any other obstruction whatsoever.
- B. Illumination. Sufficient lighting shall be provided in and 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 all parts of such premises shall be illuminated so that patrons or others on any part of the premises shall be able to read the Washington State Liquor Control Board card or other written instrument, printed in eight-point type.
- C. Signs. A sign at least two feet by two feet, with letters at least one inch high shall be conspicuously displayed in the public area(s) of the adult entertainment dance studio, stating each of the following:
 - 1. A list of any and all adult entertainment provided on the premises with the specific fee or charge in dollar amounts for each adult entertainment listed; and

2. "THIS ADULT ENTERTAINMENT DANCE STUDIO IS REGULATED BY SNOHOMISH COUNTY. DANCERS ARE:
- A. NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT
 - B. NOT PERMITTED TO APPEAR SEMI-NUDE OR NUDE, EXCEPT ON STAGE
 - C. NOT PERMITTED TO ACCEPT TIPS OR GRATUITIES IN ADVANCE OF THEIR PERFORMANCE
 - D. NOT PERMITTED TO ACCEPT TIPS OR GRATUITIES DIRECTLY FROM PATRONS WHILE PERFORMING UPON ANY STAGE AREA."

5.06.117 Standards of conduct.

The following standards of conduct must be adhered to by employees of any adult entertainment dance studio while in any area in which members of the public are allowed to be present:

- A. No employee or adult 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 except upon a stage at least 18 inches above the immediate floor level and removed at least 6 feet from the nearest member of the public.
- B. No employee or adult entertainer mingling with members of the public shall be unclothed or in less than opaque and complete attire, costume or clothing as described in subdivision (1) of this section, nor shall any male employee or adult entertainer appear at any time with his genitals in a discernibly turgid state, even if completely and opaquely covered.
- C. No employee or adult entertainer mingling with members of the public shall wear or use any device or covering exposed to view which simulates the breast of a female below the top of the areola, vulva, genitals, anus, buttocks, or any portion of the pubic region or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- D. No employee or adult entertainer shall caress, fondle or erotically touch any member of the public.
- E. No employee or adult entertainer shall encourage or permit any member of the public to caress, fondle or erotically touch any employee or adult entertainer.
- F. No employee or adult entertainer shall sit on the lap of a member of the public or separate the legs of a member of the public.
- G. No employee or adult entertainer shall perform simulated non-obscene acts of sexual conduct except upon a stage at least 18 inches above the immediate floor level and removed at least 6 feet from the nearest member of the public.
- H. No employee or adult entertainer mingling with members of the public shall conduct any dance, performance or exhibition in or about the non-stage areas of the adult entertainment dance studio unless that dance, performance or exhibition is performed at a torso-to-torso distance of no less than 4 feet from the member or members of the public for whom the dance, performance or exhibition is performed.

- I. No tip or gratuity offered to or accepted by an adult entertainer may be offered or accepted prior to any performance, dance or exhibition provided by the adult entertainer. No adult entertainer performing upon any stage area shall be permitted to accept any form of gratuity offered directly to the adult entertainer by any member of the public. Any gratuity offered to any adult entertainer performing upon the stage area must be placed into a receptacle provided for receipt of gratuities by the adult entertainment dance studio or provided through a manager on duty on the premises. Any gratuity or tip offered to any adult entertainer or employee conducting any performance, dance or exhibition in or about the non-stage area of the adult entertainment dance studio shall be placed into the hand of the adult entertainer or employee or into a receptacle provided by the adult entertainer or employee, and not upon the person or into the clothing of the adult entertainer or employee.
- J. No employee or adult entertainer shall perform actual acts of sexual conduct as defined in this chapter, or any act which constitutes a violation of RCW [7.48A](#), the Washington Moral Nuisances Statute.

5.06.120 Inspections.

All books and records required to be kept pursuant to this chapter or Washington State law shall be open to inspection by the licensing authority, city police, or their agents during the hours when the adult entertainment dance studio is open for business. The purpose of such inspection shall be to determine if the books and records meet the requirements of this chapter.

5.06.125 Activities not prohibited -- Liquor licenses.

- A. This chapter shall not be construed to prohibit:
 - 1. Plays, operas, musicals or other dramatic works which are not obscene as defined in Section 5.06.125 B below;
 - 2. Classes, seminars and lectures held for serious scientific or educational purposes;
 - or
 - 3. Exhibitions or dances which are not obscene as defined in section 5.06.125 B below.

These exemptions shall not apply to the sexual conduct defined in MVMC 5.06.020, or the sexual conduct described in RCW 7.48.010 (2)(b)(ii) and (iii).

- B. Whether or not an activity is obscene shall be judged by consideration of the following factors:
 - 1. Whether the average person, applying contemporary community standards, would find that the activity taken as a whole appeals to a prurient interest in sex; and
 - 2. Whether the activity depicts or describes in a patently offensive way, as measured against contemporary community standards, sexual conduct as described in RCW [7.48A.010](#)(2)(b); and

3. Whether the activity taken as a whole, and in the context in which it is used, lacks serious literary, artistic, political or scientific value.

5.06.130 Enforcement.

The licensing authority, community and economic development director and/or police chief or designated representatives are authorized and directed to enforce the terms and provisions of this chapter.

5.06.135 Suspension and revocation.

- A. The licensing authority may, at any time upon the recommendation of the Police Chief or as provided below suspend, revoke or impose conditions on any license issued under this chapter:
 1. Where such license was procured by fraud or false representation of fact; or
 2. For the violation of, or failure to comply with the provisions of this chapter or any other similar local or state law by the licensee or by any of its servants, agents or employees when the licensee knew or should have known of the violations committed by its servants, agents, or employees; or
 3. For the conviction of the licensee of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances as defined in RCW Article 69.50 committed on the premises, or the conviction of any of the licensee's servants, agents or employees of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances as defined in RCW Article 69.50 committed in the licensed premises when the licensee knew or should have known of the violations committed by its servants, agents or employees.
- B. A license procured by fraud or misrepresentation shall be revoked. Where other violations of this chapter or other applicable ordinances, statutes or regulations are found, the licensing authority shall suspend a license issued under this chapter for 30 days for the first violation, 90 days for the second violation and 120 days for the third and subsequent violations within a 24 month period, not including periods of suspension.
- C. No license suspended or revoked under the provisions of this chapter may be renewed during any period of suspension.
- D. The licensing authority may revoke a license upon the grounds for a suspension when a license has been suspended three times within a 24 month period, not including periods of suspension.
- E. The procedure for suspension, revocation or conditioning is initiated by the service of a notice and order issued by the licensing authority, pursuant to Chapter 19.15 MVMC.

5.06.140 Disclaimer

No license/permit issued by the City of Mount Vernon shall be construed as an endorsement by the City of Mount Vernon, including any endorsement of any licensee or

activity incidental to any licensed activity. The City of Mount Vernon assumes no liability or responsibility of any sort as a result of the issuance of any license/ permit.

5.06.150 Civil penalty.

In addition to or as an alternative to any other penalty provided herein or by law, any person who engages in any activity for which a license or permit is required pursuant to the provisions of this Chapter while his or her license is suspended or revoked, or in violation of any condition of a license, or who fails to obtain a license or permit prior to engaging in the activity for which a license or permit is required, or who otherwise violates any license or permit law shall pay as set forth in Chapter 19.35.010 MVMC. The civil penalty may be assessed and collected by use of all appropriate legal remedies, including the procedures set out in Title 19 of the MVMC.

5.06.160 Criminal penalty.

Except as otherwise specifically provided in this Chapter, any person violating or failing to comply with any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in any sum not exceeding \$1,000 or by imprisonment in the county jail for a period not exceeding 90 days, or both. Each day that any person conducts any business, calling, profession, trade, occupation or activity in violation of any provision of this chapter shall constitute a separate offense and be punished as such.

5.06.170 Public nuisance.

Any activity, act, or conduct undertaken without a license or permit required by this Chapter constitutes a public nuisance and such activity, act, or conduct may be abated by the licensing authority or police chief by securing an appropriate order from the court.

5.06.180 Nonexclusive remedies.

The remedies for violation of this Chapter set out in this Chapter are not exclusive.

5.06.190 Severability.

If any portion of this chapter, or its application to any person or circumstance, is held invalid, the remainder or application to other persons or circumstances shall not be affected.

SECTION 3. Chapter 5.13, CABARETS, of the Mount Vernon Municipal Code is hereby repealed and reenacted, which Chapter shall read as follows:

**Chapter 5.13
ADULT BUSINESSES AND EMPLOYEES**

Sections:

- 5.13.005 General provisions.
- 5.13.010 Definitions.
- 5.13.015 Adult businesses-License required.
- 5.13.020 License fees and term.
- 5.13.025 Investigation required.
- 5.13.030 Fingerprinting required.
- 5.13.035 Photograph required.
- 5.13.040 Underage employees.
- 5.13.045 Unlawful to employ unlicensed person.
- 5.13.050 Manager license required.
- 5.13.055 Employee license required.
- 5.13.060 Exclusions.

- 5.13.070 Standards of conduct.
- 5.13.075 Notice to public.
- 5.13.080 Prima facie evidence of adult sales practice.
- 5.13.085 Signs.
- 5.13.090 Enforcement.
- 5.13.095 Nuisance declared.
- 5.13.100 Additional enforcement.
- 5.13.105 Relation to other laws
- 5.12.110 Severability

5.13.005 General provisions.

Unless specified otherwise in this chapter, the general provisions contained in chapter 5.04 MVMC shall apply to licenses required by this chapter.

5.13.010 Definitions.

The words and phrases in this chapter, unless the context otherwise indicates, shall have the following meanings:

- A. "Adult entertainment" means:
 - 1. Any exhibition, performance or medium which is distinguished or characterized by displays of less than completely and opaquely covered human genitals, pubic hair, pubic area, perineum, anus, buttocks, or female breast below the top of the areola; or
 - 2. Any exhibition, performance or dance conducted in a premises where such exhibition, performance or dance is performed within the view of one or more members of the public and is intended or is likely to sexually stimulate any member of the public.
- B. "Adult entertainment book store" means any business from which minors are excluded and in which the purchase, rental, viewing or use of books, magazines, newspapers, movie films, devices, slides, or other photographic or written

- reproductions distinguished or characterized by their emphasis on matter depicting, describing, or relating to adult entertainment or adult entertainment material make up 25% or more of the stock in trade.
- C. "Adult entertainment business" means any establishment or premises other than a business subject to chapter 5.06 MVMC or 5.56 MVMC, which:
 - 1. Engages in adult sales practice; or
 - 2. Has at least 25% of its trade in the display, barter, rental, or sale of a medium which meets the criteria of adult entertainment as defined by this chapter including but not limited to: adult entertainment bookstores, adult entertainment movie theaters, adult tanning salons, escort businesses and nude house cleaning businesses; or
 - D. "Adult hotel" means a hotel, motel, or similar commercial establishment which offers a sleeping room for rent for a period of time less than 10 hours or allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.
 - E. "Adult entertainment movie theater" means any establishment, from which minors are excluded and where the principal use of the premises consists of the showing of motion pictures, slides, or photographic or other visual reproductions, where the subject matter meets the criteria of adult entertainment as defined in this chapter and where fees of any kind are charged. This definition shall include establishments wherein the above mentioned medium is the major attraction on a regular basis and establishments wherein the above mentioned medium is shown at least 25% of the showing time of the theater.
 - F. "Adult sales practice" means any activity which is distinguished or characterized by a person being in a state of partial nudity while conducting or otherwise engaged in retail sales of goods or services under circumstances where such conduct is likely to be viewed by a member of the public.
 - G. "Adult tanning salon" means any establishment which offers tanning services to a member of the public and in which adult entertainment takes place.
 - H. "Customer" means a person patronizing a business for which an adult business license is required by this chapter.
 - I. "Employee" means any and all persons who work in or at or render any services directly related to the operation of an adult entertainment business regardless of whether that person meets the criteria of a statutory employee, common law employee or independent contractor.
 - J. "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
 - K. "Escort business" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts.
 - L. "Manager" means any person who manages, directs, administers or is in charge of, the affairs and/or conduct of any portion of any activity involving adult entertainment occurring at any place offering adult entertainment.
 - M. "Member of the public" means any person other than a manager or employee as defined in this section.

- N. "Nude or state of nudity" means a state of dress or undress such that any of the body parts described in the City's lewd conduct ordinance, MVMC 9.19.040, is exposed to view or covered with anything other than a full and opaque covering within the meaning of that ordinance.
- O. "Nude house cleaning business" means a person or business which offers house cleaning services in which the house cleaner is in a state of nudity.
- P. "State of partial nudity" means a state of dress or undress not constituting a state of nudity in which any of the following body parts or portions thereof is exposed to view or covered with anything other than a full and opaque covering:
 - 1. Any part of the buttocks or anal cleft; or
 - 2. Any part of the female breast located below the top of the areola.
 - 3. Items commonly known as pasties, G-strings, T-backs, dental floss, and thongs; body paint, body dye, tattoos, latex, tape, or any similar substance applied to the skin surface; any substance that can be washed off the skin; or any substance designed to simulate or which by its nature simulates the appearance of the anatomical area beneath it, is not full and opaque covering within the meaning of this subsection.
- Q. "Stock in trade" means the greater of: (a) the retail dollar value of all prerecorded video tapes, discs, books, magazines or similar material readily available for purchase, rental, viewing or use by patrons of the establishment, including paper or electronic form, excluding material located in any storeroom or other portion of the premises not regularly open to patrons; or (b) the total number of titles of all prerecorded video tapes, discs, books, magazines, or similar material readily available for purchase, rental, viewing or use by patrons of the establishment, including paper or electronic form, excluding material located in any storeroom or other portion of the premises not regularly open to patrons.

5.13.015 Adult businesses-License required.

No person shall operate within the City of Mount Vernon an adult entertainment business, an adult hotel, an adult tanning salon, an escort business, or a nude house cleaning business without a valid adult business license issued by the licensing authority. No escort business or nude house cleaning business shall provide services within the City of Mount Vernon without a valid license issued by the licensing authority.

5.13.020 License fees and term.

The fees for the licenses required by this chapter are as follows:

- A. Adult business location: \$265.00;
- B. Adult business employees: \$115.00;
- C. Adult business manager: \$115.00.

The terms for these licenses is one year from date of issuance.

5.13.025 Investigation required.

Applicants seeking a license under this chapter shall have applicant's application forwarded to the Mount Vernon Police Department with any supporting documents to be investigated as follows:

- A. Whether any outstanding criminal violations/charges exist.
- B. Whether any legitimate complaints exist regarding the applicant's past business practices that would have any bearing or effect on the issuance of the license/permit under consideration.
- C. Whether the person is prohibited by law from engaging in this type of activity.
- D. Whether the application should otherwise be disapproved based upon public safety considerations.
- E. Within 30 days following the receipt of the application from the licensing authority, the police chief or his or her designee make a written recommendation on the issuance of the license setting forth the results in his investigation and his recommendation as to the disposition of the application. The police chief or his or her designee may request an extension to complete his investigation of no more than 30 days, which request shall be granted upon a showing of reasonable cause.

5.13.035 Photograph required.

Applicants seeking an employee or manager license as required by this chapter shall submit photographs when applications are submitted. Each applicant, or party signing the application, shall submit four 2" x 2" photographs taken within the last six months of the date of application showing three full face and one full length front-facing shot. These photographs shall be provided at the expense of the applicant. The applicant shall certify under penalty of perjury that the photograph is a true, accurate and unaltered depiction of the applicant. The license, when issued, shall have affixed to it a photograph of the applicant, or the party signing the application, shall be posted at all times in a conspicuous place in the establishment where such license is enjoyed, and shall not be tampered with in any manner. On renewal of a license applicants must resubmit photographs as described in this section.

5.13.040 Underage employees.

It shall be unlawful for any owner, proprietor, manager, or person in charge of any facility regulated by this chapter, to have an employee in such establishment, under the age of 18 years.

5.13.045 Unlawful to employ unlicensed person.

It shall be unlawful for any owner, proprietor, manager, or person in charge of any escort business, nude house cleaning business, adult tanning salon, or business using an adult sales practice, as regulated by this chapter, to employ in such establishment, any person who does not have a valid employee license as required by MVMC 5.13.055.

5.13.050 Manager license required.

No person shall work as a manager in nude house cleaning business, escort business, adult tanning salon, or business using an adult sales practice, as regulated by this chapter, without a valid license issued by the licensing authority.

5.13.055 Employee license required.

- A. It shall be unlawful for any person to work in the following adult entertainment businesses, in the capacities outlined below, without a license as provided for in this chapter:
 - 1. "nude house cleaning"--any person actually performing or assisting in the performance of nude house cleaning, as defined in this chapter;
 - 2. "escort business"--any person acting as an escort as defined by this chapter;
 - 3. "adult tanning salons"--any person performing any services in a closed room while the patron is present; or
 - 4. business using an "adult sales practice"--any person who is in a state of partial nudity while conducting or otherwise engaged in retail sales of goods or services.
- B. All licenses required shall be invalid as to any adult entertainment business during any period in which the employer is not engaged in business whether by reason of choice or failure of the employer to operate a business or by reason of lapse, suspension or revocation of employer's license.
- C. An employee license shall entitle the employee to work only at the adult entertainment business indicated on the employee's license. If an employee changes his or her employment during the license term, the license certificate must be returned to the licensing authority or reissuance, upon payment of the fee set out in MVMC 5.13.020, indicating the new place of employment.

5.13.060 Exclusions.

- A. This chapter shall not be construed to prohibit:
 - 1. Plays, operas, musicals, dramatic works, or other exhibitions or performances that constitute protected speech under the federal or state constitution and which are not obscene;
 - 2. Classes, seminars and lectures held for serious scientific or educational purposes;
 - 3. Conduct of licensed adult entertainers within adult entertainment dance studios operating pursuant to chapter 5.06 MVMC; or
 - 4. The act of breastfeeding or expressing breast milk.
- B. For this chapter, any exhibition, performance, dance or other medium is obscene:
 - 1. Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and
 - 2. Which explicitly depicts or describes patently offensive representations or descriptions of
 - a. Ultimate sexual acts, normal or perverted, actual or simulated; or

- b. Masturbation, fellatio, cunnilingus, bestiality, excretory functions or lewd exhibition of the genitals or genital area; or
- c. Violent or destructive sexual acts including but not limited to human or animal mutilation, dismemberment, rape or torture; and
- 3. Which, when considered as a whole, and in the context in which it is used, lacks serious literary, artistic, political, or scientific value.

5.13.070 Standards of conduct.

The following standards of conduct shall be adhered to by any adult business for which a license is required by this chapter:

- A. No person under the age of 18 years shall enter or remain in any establishment or premises in which an employee is in a state of nudity or partial nudity.
- B. No employee shall be in a state of partial nudity under circumstances where such conduct is likely to be observed by a member of the public other than a customer.
- C. No employee shall be in a state of nudity under circumstances where such conduct is likely to be observed by a member of the public, except that an employee who is employed as an escort or nude house cleaner may be in a state of nudity when observed by a customer.
- D. No employee who is employed as an escort or nude house cleaner shall be in a state of nudity when observed by a customer unless the employee is removed at least 6 feet from the nearest customer.
- E. No male employee shall be visible to a member of the public with his genitals in a discernibly turgid state, even if completely and opaquely covered.
- F. No employee shall caress, fondle or erotically touch any employee or member of the public.
- G. No employee shall encourage or permit any member of the public to caress, fondle or erotically touch any employee or member of the public.

5.13.075 Notice to public.

Any business for which an adult business license is required by this chapter shall by signage and other reasonable means put potential customers on notice that the business is an adult business from which persons under the age of 18 years are excluded. Such notice for a business establishment or premises shall include at least one sign conspicuously displayed at each entrance which shall have horizontal and vertical dimensions of least two feet by two feet and state "ADULTS ONLY" in bold letters at least six inches in height.

5.13.080 Prima facie evidence of adult sales practice.

It shall be prima facie evidence of an adult sales practice when a person other than an adult entertainer as defined in MVMC 5.06.020 engages in the retail sale of goods or services while in a state of partial nudity under circumstances where such conduct is likely to be viewed by a member of the public.

5.13.085 Signs.

In addition to any restriction on signs imposed, it shall be unlawful for an adult business for which a license is required by this chapter to display a sign as defined in MVMC 17.87.020 which is obscene, deceptive, misleading, or false, or which proposes a transaction which is illegal.

5.13.090 Enforcement.

The licensing authority, community and economic development director and/or police chief or designated representatives are authorized and directed to enforce the terms and provisions of this chapter.

5.13.095 Nuisance declared.

- A. Any adult entertainment business operated, conducted or maintained in violation of this chapter shall be, and the same is declared to be, unlawful and a public nuisance. The county may, in addition to or in lieu of any other remedies set forth in this chapter, commence an action to enjoin, remove or abate such nuisance in the manner provided by law, and may take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person from operating, conducting or maintaining an adult business contrary to the provisions of this chapter.
- B. Any adult entertainment business operated, conducted or maintained contrary to the provisions of chapter 7.48A RCW shall be, and the same is declared to be, unlawful and a public and moral nuisance and the prosecuting attorney may, in addition to or in lieu of any other remedies set forth in this chapter, commence an action or actions to enjoin, remove or abate such public and moral nuisance, or impose a civil penalty, in the manner provided by chapter 7.48A RCW.

5.13.100 Additional enforcement.

The remedies provided for in this chapter are not exclusive, and the City may seek any other legal or equitable relief, including but not limited to enjoining any acts or practices which constitute or will constitute a violation of this chapter.

5.13.105 Relation to other laws.

- A. This chapter shall not limit application of Chapter 9.19 MVMC and any other laws prohibiting public nudity except as expressly provided therein. Pursuant to MVMC 9.19.040, any public exposure of a person in a state of nudity, other than employees working as escorts or nude house cleaners in adult businesses operating pursuant to this chapter, must be conducted within an adult entertainment dance studio operating pursuant to chapter 5.06 MVMC.

- B. This chapter shall not be construed to limit application of other federal, state, and local laws that may apply to adult businesses or employees subject to this chapter, including but not limited to laws relating to public health and workplace safety.

5.13.110 Severability.

If any section, sentence, clause or phrase of this chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this chapter.

SECTION 4. That a new section 17.72.130 of the Mount Vernon Municipal Code is hereby created which section shall read as follows:

17.72.130 Adult entertainment uses.

Adult entertainment uses must meet the following requirements:

- A. Adult entertainment businesses or uses are prohibited within the area circumscribed by a circle which has the radius shown below from any public or private school, preschool, educational institution, church or other religious facility, public or private park, libraries, child care centers, game arcades, youth oriented facilities, and shall be permitted in only the following: Those areas of the C-L Commercial/Limited Industrial District as further set forth in Exhibit A attached hereto:
 - 1. Adult entertainment book stores-- 650'.
 - 2. Adult entertainment dance studios-- 650'.
 - 3. Adult entertainment movie theaters-- 650'.
 - 4. Adult hotels-- 650'.
 - 5. Adult tanning salons-- 650'.
 - 6. Escort businesses-- 0'.
 - 7. Nude house cleaning businesses-- 0'.
 - 8. Panoram premises-- 650'
 - 9. All other adult entertainment uses-- 650';
- B. The distances specified in this section shall be measured horizontally by following a straight line without regard to intervening buildings, from the nearest point of the property parcel upon which the proposed use is to be located to the nearest point of the parcel of property of the land use from which the proposed use is to be separated;
- C. Violation of the use provisions of this section is:
 - 1. Declared to be a public nuisance per se, which may be abated by the county by way of civil abatement procedures only, and not by criminal prosecution; or
 - 2. Subject to enforcement in accordance with the provisions of Title 19 MVMC;

- D. Nothing in this section is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building, or use which violates any other City of Mount Vernon or Skagit County ordinance or statute of the State of Washington or any Federal law regarding public nuisances, sexual conduct, lewdness, or obscene or harmful matter or the exhibition or public display thereof; and
- E. The following definitions apply to adult entertainment uses:
1. "Adult entertainment" means any exhibition, performance or medium which is distinguished or characterized by:
 - a. acts of masturbation, sexual intercourse, or sodomy;
 - b. fondling or other touching of the human genitals, pubic region, buttocks or female breast;
 - c. human genitals in a state of sexual stimulation or arousal;
 - d. displays of less than completely and opaquely covered human genitals, pubic region, anus, buttocks, or female breast below the top of the areola;
 - e. human male genitals in a discernibly turgid state even if completely covered;
 - f. any exhibition, performance, or dance conducted in a premises where such exhibition, performance, or dance is performed within the view of one or more members of the public and is intended or is likely to sexually stimulate any member of the public; or
 - g. adult entertainment shall not include the following:
 - i. plays, operas, musicals, or other dramatic works which are not obscene;
 - ii. classes, seminars, and lectures which are held for serious scientific or educational purposes;
 - iii. exhibitions or dances which are not obscene;
 - h. For this chapter, any exhibition, performance, dance, or other medium is obscene:
 - i. which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and
 - ii. which explicitly depicts or describes patently offensive representations or descriptions, applying contemporary community standards of sexual conduct as described in RCW 7.48A.010(2)(b); and
 - iii. which, when considered as a whole, and in the context in which it is used, lacks serious literary, artistic, political, or scientific value.
 2. "Adult entertainer" means any person who provides live adult entertainment within an adult entertainment dance studio as defined in this section whether or not a fee is charged or accepted for entertainment.
 3. "Adult entertainment book store" means any business from which minors are excluded and in which the purchase, rental, viewing or use of books, magazines, newspapers, movie films, devices, slides, or other photographic or written reproductions distinguished or characterized by their emphasis on matter depicting, describing, or relating to adult entertainment or adult entertainment materials make up 25 percent or more of the stock in trade.
 4. "Adult entertainment business/use" means any establishment or premises engaged in the adult sales practices as defined in MVMC 5.13.010 F, or which has a

- substantial or significant portion of its trade, the display, barter, rental or sale of any adult entertainment medium, or which meets the definitions contained in this chapter of adult entertainment book stores, adult hotels, adult entertainment movie theaters, adult tanning salons, escort businesses, nude house cleaning businesses, adult entertainment dance studios, panoram premises.
5. Adult entertainment dance studio" means any place where an exhibition or dance of any type is conducted where such exhibition involves adult entertainment as defined by this section.
 6. Adult entertainment movie theater" means any establishment, from which minors are excluded and where the principal use of the premises consists of the showing of motion pictures, slides, or photographic or other visual reproductions, where the subject matter meets the criteria of adult entertainment as defined in this chapter and where fees of any kind are charged. This definition shall include establishments where the above mentioned medium is the major attraction on a regular basis and establishments wherein the above mentioned medium is shown at least 25 percent of the showing time of the theater
 7. "Adult hotel" means a hotel, motel, or similar commercial establishment which offers a sleeping room for rent for a period of time less than 10 hours or allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.
 8. "Adult tanning salon" means any establishment which offers tanning services to a member of the public and in which adult entertainment takes place.
 9. "Child Care Centers" means facilities that regularly provide child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.
 10. "Church" means buildings or structures, or groups of buildings or structures, which by design, construction or use are primarily intended for the conducting of organized religious services and accessory uses associated therewith.
 11. "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
 12. "Escort business" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for fee, tip, or other consideration.
 13. "Game Arcades" means entertainment venues featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted
 14. "Member of the public" means any customer, patron or person, other than an employee, who is invited or admitted to an adult entertainment premises.
 15. "Nude or state of nudity" means displays of less than completely and opaquely covered human genitals, pubic area, anus, buttocks, or female breast below the top of the areola.
 16. "Nude house cleaning business" means a business which offers house cleaning services in which the house cleaner is in a state of nudity.

17. "Panoram premises" or "adult arcade" means any premises on which any panoram device is located and to which members of the public are admitted. The term "panoram premises" as used in this chapter does not include movie or motion picture theater auditoriums capable of seating more than five people.
18. "Panoram," "preview," "picture arcade," or "peep show" means any device which, for payment of a fee, membership fee or other charge, is used to exhibit or display a picture, view, or other graphic display of adult entertainment. The terms "panoram" and "panoram device" as used in this chapter do not include games which employ pictures, views, or video displays or gambling devices regulated by the state or by chapter 5.14 MVMC.
19. "Parks" means land owned or maintained by a public or private entity opened to the public designated for and used by the public for active and passive recreational activities.
20. "Schools" means any building or part thereof designed, constructed, or used for formal educational uses recognized by the Washington state superintendent of public instruction. This definition includes both public and private schools
21. "Stock in trade" means the greater of:
 - a. the retail dollar value of all prerecorded video tapes, discs, books, magazines, or similar material readily available for purchase, rental, viewing, or use by patrons of the establishment, excluding material located in any storeroom or other portion of the premises not regularly open to patrons; or
 - b. the total number of titles of all prerecorded video tapes, discs, books, magazines, or similar material readily available for purchase, rental, viewing, or use by patrons of the establishment excluding material located in any storeroom or other portion of the premises not regularly open to patrons.
22. "Trails" means linear shaped facilities designed and intended for the public to walk, run, or otherwise travel across.
23. "Youth oriented facility" means facilities owned or operated by non-profit organizations for the purpose of providing recreational or educational opportunities for youth including, but not limited to, Boys and Girls Clubs, YMCAs, YWCAs, Little League, and other youth sports associations.

F. If any sentence, clause or phrase of this section should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this chapter.

SECTION 5. **Repealer.** The following definitions set forth in MVMC 17.06.010 A are hereby repealed:

- "Adult bookstore"
- "Adult cabaret"
- "Adult drive-in theater"
- "Adult entertainment"
- Adult Entertainment Establishment.
- "Adult motion picture theater"

“Adult retail store”
“Adult video store”

SECTION 6. **Repealer.** The following are hereby repealed.

- A. Ordinance 3429 as codified in Section MVMC 17.45.030 A 10.
- B. Ordinance 3429 as codified in Section MVMC 17.48.020 A 11.
- C. Ordinance 3429 as codified in Section MVMC 17.51.040 B

Repeal is limited to only those sections described above. All portions of Ordinance 3429 not identified above shall remain in force and effect.

SECTION 6. **Hearing To Be Held.** Pursuant to RCW 36.70A.390 and/or RCW 35A.63.220, the City Council shall hold a public hearing on this interim regulation within 60 days of adoption of this interim regulations ordinance.

SECTION 7. **City to Consider Permanent Regulations Adoption of City Work Plan.** The City Council hereby directs that the City Community and Economic Development Department to study the issue of adult entertainment uses within the City and begin the process of drafting proposed permanent regulations to be considered through the City’s public participation process including allowing for public input and providing for public hearings at both the Planning Commission and City Council. City Council Adopt the following work plan set forth in Exhibit B attached hereto.

SECTION 8. **Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

SECTION 9. **Savings Clause.** All previous ordinances including Ordinance No. 3536 which may be repealed in part or their entirety by this ordinance, shall remain in full force and effect until the effective date of this ordinance.

SECTION 10. **Effective Date and Declaration of Emergency.** The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority plus one of the whole membership of the Council, and that the same is not subject to a referendum. Without an immediate interim regulation on the City's acceptance of business licenses, building applications, permits or other types of land use/development permits/approvals, such applications could become vested under regulations subject to change by the City in this comprehensive review and regulation amendment/adoption process. This Ordinance will not affect any existing rights, or any vested applications previously submitted to the City.

SECTION 11. **Ordinance to be Transmitted to Department.** Pursuant to RCW 36.70A.106, this Interim Ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

PASSED AND ADOPTED by the City Council of the City of Mount Vernon at a regular meeting thereof this 25 th day of October, 2016.

SIGNED AND APPROVED this 26 th day of October, 2016.

City of Mount Vernon



Jill Boudreau, Mayor

ATTEST:



Alicia Huschka, City Finance Director

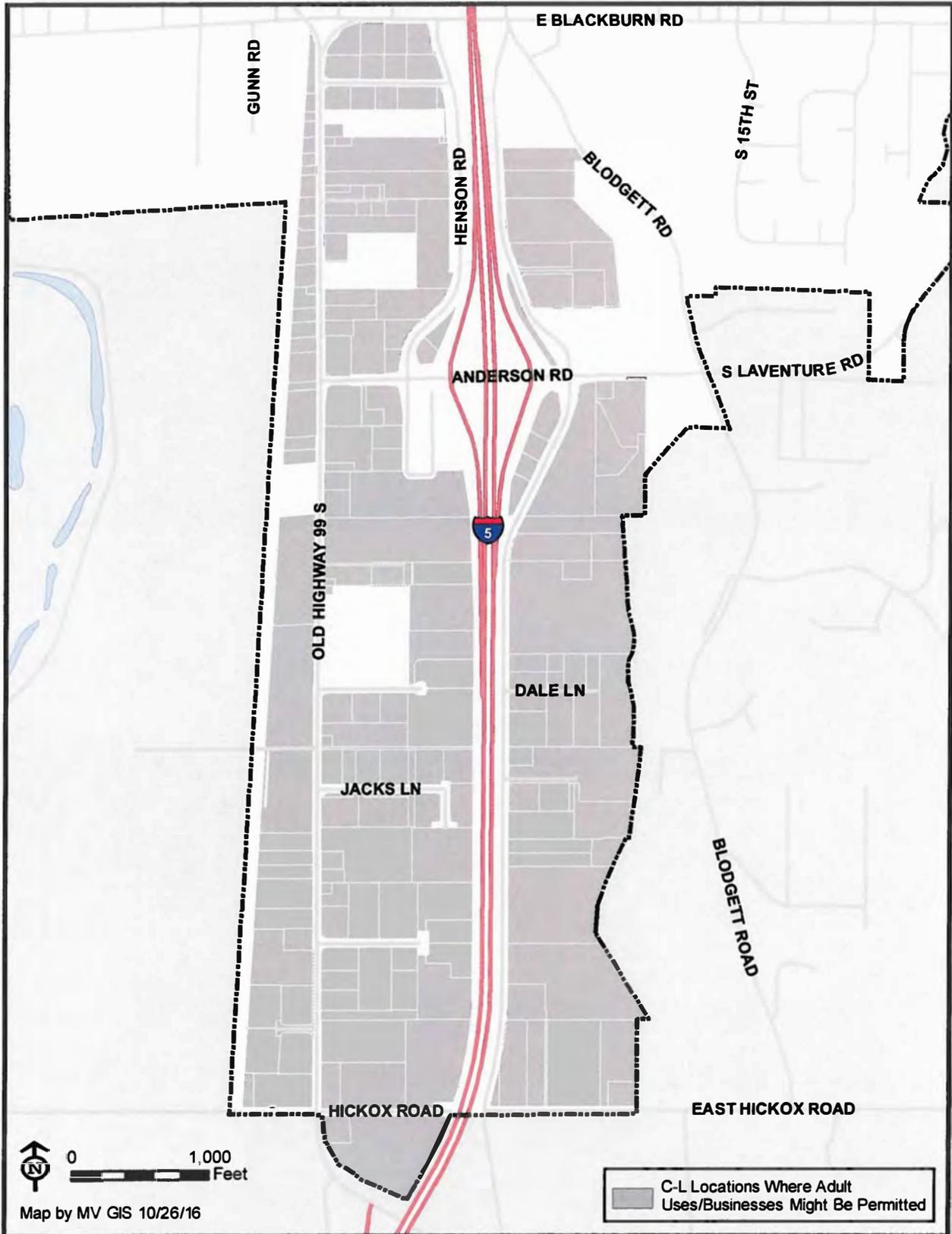
Approved as to Form:



Kevin Rogerson, City Attorney

Date of Publication: Oct 30, 2016
Effective Date: _____

Exhibit A
Adult Uses / Businesses Overlay Zone



Map by MV GIS 10/26/16

■ C-L Locations Where Adult Uses/Businesses Might Be Permitted

Exhibit B

ADULT ENTERTAINMENT INTERIM REGULATION WORK PLAN

This Adult Entertainment Interim Regulation Work Plan supports the City's Ordinance No. 3698 establishing interim control measures and regulations and licensing and zoning regulations repealing and re-enacting chapter 5.13 of the Mount Vernon Municipal Code, adding a new chapter 5.06 of the Mount Vernon Municipal Code relating to adult business licenses, employees, and adopting regulations amending Mount Vernon Municipal Code Title 17, and declaring an emergency necessitating immediate adoption of interim control regulations to ensure the City Council's intent for appropriate licensing and zoning and other regulations for adult entertainment. This Work Plan is established pursuant to RCW 35A.63.220 and RCW 36.70A.390, as well as interpretative judicial decisions, which authorize adoption of interim zoning controls and regulations with certain limitations, including, if appropriate, a work plan.

Work Plan General Rules and Procedures:

1. All meetings of the Adult Entertainment Zoning and Licensing Committee shall comply with Washington State's Open Public Meetings Act
2. All meetings of the Adult Entertainment Zoning and Licensing Committee shall include a time during the meeting to allow public testimony
3. All meetings of the Adult Entertainment Zoning and Licensing Committee shall substantially comply with Robert Rules of Order
4. Any permanent development regulations and or comprehensive proposed amendments shall comply with the City's public participation program adopted through Resolution 491. In the event of a conflict between Resolution 491 and Ordinance 3698, Ordinance 3698 shall control.
5. For the purposes of Resolution 491, the Council hereby accepts Ordinance 3698 as a proposed amendment for review as a docketed amendment.
6. The Mount Vernon Community and Economic Development Department shall: i) retain all documents reviewed or prepared by the Committee; ii) assign a staff person(s) to provide administrative support; and iii) shall keep minutes.
7. All documents shall be made available to the public at the Community and Economic Development Department during normal business hours.
8. The Adult Entertainment Zoning and Licensing Committee, Planning Commission, or City Council may extend the time schedule set forth below in order if necessary to adequately study materials submitted, obtain new or supplementary information, or provide additional public comment or testimony.

Work Plan Schedule:

November 2016

A minimum of two meetings of the Adult Entertainment Zoning and Licensing Committee.

Tasks shall include:

- Appointing Chairperson and Second (alternative) Chairperson;
- Establish and publish a schedule of meeting days, times, and locations for meetings.
- Review of City's Interim Regulations adopted by Ordinance 3698;
- Review of City's Legislative Record including all Secondary Effects evidence and testimony;
- Acceptance of public testimony; and
- Acceptance and review of additional testimony by City Staff and the public.

December 2016

A minimum of two meetings of the Adult Entertainment Zoning and Licensing Committee

Tasks shall include:

- Review of proposed drafts of the plans or ordinances;
- One joint meeting with the City's Planning Commission;
- Presentation of additional information in response to the Committee's requests, public testimony, or suggestions by the City's Planning Commission; and
- Make a recommendation together with findings to the City's Planning Commission.

January 2017 – February 2017

Public Review, Comment and Hearing of the Planning Commission.

- The Mount Vernon Planning Commission shall review all proposed amendments or adopt new plans and/or implementing regulations, and make recommendation to the City Council together with any SEPA analysis.
- The Planning Commission shall hold at least one public hearing and additional hearings if needed.
- The Planning Commission will make a recommendation, together with findings, to the City Council unless it is unable to reach a decision on a recommendation.

March 2017

- City Council review and consideration of Planning Commission recommendation after public notice and public comment required pursuant to Resolution 491.

The Mount Vernon City Council adopted Ordinance 3698 on October 26, 2016. An Ordinance of the City of Mount Vernon, Washington, enacting interim licensing and zoning regulations repealing and re-enacting Chapter 5.13 of the Mount Vernon Municipal Code, adding a new Chapter 5.06 of the Mount Vernon Municipal Code relating to adult business licenses, employees, and adopting regulations amending Mount Vernon Municipal Code Title 17; and declaring an emergency necessitating immediate adoption of interim control regulations for the zoning, licensing and regulation of adult entertainment. Anyone wishing to view or receive the ordinance in its entirety should contact the Mount Vernon Finance Office, 910 Cleveland, Mount Vernon WA 98273.

Published: October 30, 2016

ORDINANCE NO. 3699

AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON, RELATING TO OFFENSES AGAINST PUBLIC MORALS, PROHIBITING CERTAIN CONDUCT; REPEALING AND REENACTING SECTIONS 9.19.030-9.19.040 OF THE MOUNT VERNON MUNICIPAL CODE, ADDING NEW CODE SECTIONS, AND PRESCRIBING PENALTIES.

WHEREAS, cities have the right and duty to enact laws for the protection of the public health, safety, general welfare, economic vitality and economic growth, and morals; and

WHEREAS, the City of Mount Vernon was incorporated in 1890, is a non-charter code city organized under Title 35A of the revised code of Washington with a population of thirty three thousand three hundred and fifty persons over twenty seven percent of which are under the age of 18. The City is largely defined by the Skagit River to north and east, a number of streams, some salmon bearing, and lower Skagit Valley agricultural lands which surround parts of the City. As stated in the City's comprehensive plan, one of the City's primary goals is to maintain, enhance, or establish those elements that create the quality of life for its residents by providing a rural, natural setting with small town character and community atmosphere; and

WHEREAS, the City's Comprehensive Plan was last updated on September 14, 2016 and provides in part for the following as goals and policies of the City to help protect the public health, safety, welfare, morals and economic vitality and growth of the City:

1. **GOAL LU-5** Enhance and improve the quality of single-family living environments throughout the City.
2. **Policy LU-1.2.1** Provide development regulations that create a compatible pattern of development within established neighborhoods. The development standards shall address densities, building setbacks, parking and landscaping
3. **Policy LU-8.2.6** Development should be designed to mitigate potential adverse impacts on adjacent properties with different zoning designations (i.e., residential or public zoning). Careful consideration of impacts from lighting, landscaping, and setbacks should all be evaluated during site design
4. **Goal LU-9:** To minimize potential noise impacts to the surrounding residential neighborhood all non-residential uses should be closed for business at reasonable times.
5. **Goal LU-10:** Development Regulations shall be adopted to reduce the negative visual, noise, odor, and exhaust impacts from garbage and recycling receptacles, loading docks, and drive through lanes
6. **Housing element goal 1.** promote the preservation, maintenance and enhancement of existing housing and residential neighborhoods throughout the City.
7. **Health and Wellness element goal hw-2.** Improve the safety of neighborhoods and public spaces.

ORDINANCE NO. 3699

AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON, RELATING TO OFFENSES AGAINST PUBLIC MORALS, PROHIBITING CERTAIN CONDUCT; REPEALING AND REENACTING SECTIONS 9.19.030-9.10.040 OF THE MOUNT VERNON MUNICIPAL CODE, ADDING NEW CODE SECTIONS, AND PRESCRIBING PENALTIES.

WHEREAS, cities have the right and duty to enact laws for the protection of the public health, safety, general welfare, economic vitality and economic growth, and morals; and

WHEREAS, the City of Mount Vernon was incorporated in 1890, is a non-charter code city organized under Title 35A of the revised code of Washington with a population of thirty three thousand three hundred and fifty persons over twenty seven percent of which are under the age of 18. The City is largely defined by the Skagit River to north and east, a number of streams, some salmon bearing, and lower Skagit Valley agricultural lands which surround parts of the City. As stated in the City's comprehensive plan, one of the City's primary goals is to maintain, enhance, or establish those elements that create the quality of life for its residents by providing a rural, natural setting with small town character and community atmosphere; and

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5. **Goal LU-10:** Development Regulations shall be adopted to reduce the negative visual, noise, odor, and exhaust impacts from garbage and recycling receptacles, loading docks, and drive through lanes
6. **Housing element goal 1.** promote the preservation, maintenance and enhancement of existing housing and residential neighborhoods throughout the City.
7. **Health and Wellness element goal hw-2.** Improve the safety of neighborhoods and public spaces.

WHEREAS, the Supreme Court has recognized the right of local governments to regulate offensive conduct in public places, including public nudity; and

WHEREAS, local laws that regulate conduct in public places should clearly describe the conduct that is proscribed and include appropriate safeguards against infringement on protected expression; and

WHEREAS, such conduct has had and is likely to have negative impacts on the community, including but not limited to criminal activities, exploitation of female employees, and exposure of minors to conduct that is appropriate only for adults; and

WHEREAS, the City council intends by this ordinance to protect the public health, safety, welfare, economic vitality and economic growth, and morals by revising existing code provisions and adopting new provisions relating to lewd conduct.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNT VERNON, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. Findings. That the City Council adopts the recitals set forth above as findings of fact supporting adoption of this Ordinance.

SECTION 2. That section 9.19.030 of the Mount Vernon Municipal Code is hereby repealed and reenacted, which reenacted section shall read as follows:

9.19.030 Definitions.

As used in this chapter, the following definitions shall apply:

- A. "Expose" means to reveal, exhibit, or otherwise render open to public view.
- B. "Expressive conduct" means any dance, opera, musical, dramatic work, or other exhibition or performance, whether or not part of an organized or formal event that constitutes protected speech under federal or state constitution.
- C. "Obscene" matter means any matter:
 - 1. Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and
 - 2. Which explicitly depicts or describes in a patently offensive way, as measured against contemporary community standards, sexual conduct as described in RCW 7.48A.010(2)(b); and
 - 3. Which, when considered as a whole, and in the context in which it is used, lacks serious literary, artistic, political or scientific value.
- D. "Public place" means an area generally visible to public view, and includes without limitation streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and any place in which the general public has a right to be present or view, whether or not conditioned upon

- payment of a fee, and included, but is not limited to, buildings open to the general public (including those which serve food or drink or provide entertainment), doorways and entrances to buildings or dwellings and the grounds enclosing them and structures from which customers can be served through a drive-up or walk-up window, or other means, whether or not access is restricted according to age.
- E. "Public place provided or set apart for nudity" means an enclosed public restroom, an enclosed functional shower or locker room facility, an enclosed sauna, a motel room or hotel room designed and intended for sleeping accommodations, the location of a bona fide private club whose membership as a whole engages in social nudism or naturalism (a nudist resort or camp), and any similar public places in which nudity is necessarily and customarily expected outside of the home.
 - F. "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of any person.
 - G. "Sexual intercourse:"
 - 1. Has its ordinary meaning and occurs upon any penetration, however slight; and
 - 2. 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
 - 3. 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.
 - H. "Sexually explicit material" means any pictorial or three-dimensional material depicting sexual intercourse, masturbation, sodomy, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of sexual relationship, or emphasizing the depiction of adult human genitals; PROVIDED, HOWEVER, That works of art or of anthropological significance shall not be deemed to be within the foregoing definition. In determining whether material is prohibited for public display by this section such material shall be judged without regard to any covering which may be affixed or printed over the material in order to obscure genital areas in a depiction otherwise falling within the definition of this subsection.

SECTION 3. That section 9.19.040 of the Mount Vernon Municipal Code is hereby repealed and reenacted, which section shall read as follows:

9.19.040 Lewd Conduct.

- A. A person is guilty of lewd conduct if in a public place and under circumstances where such conduct is likely to be observed by a member of the public the person intentionally:

1. Exposes any of the following body parts of the person without a full and opaque covering in other than a public place provided or set apart for nudity:
 - a. Any part of the male or female genitals, pubic hair, pubic area, perineum, anus, or bottom one-half of the anal cleft;
 - b. Any part of the areola or nipple of the female breast; or
 - c. More than one-half of the part of the female breast located below the top of the areola, provided that the covered area shall be reasonably compact and contiguous to the areola.
 2. Exposes the male genitals in a discernibly turgid state, even if fully and opaquely covered.
 3. Touches, caresses, or fondles the genitals or female breast, whether clothed or unclothed;
 4. Masturbates; or
 5. Engages in sexual contact.
- B. Body paint, body dye, tattoos, latex, tape, or any similar substance applied to the skin surface, any substance that can be washed off the skin, or any substance designed to simulate or by which by its nature simulates the appearance of the anatomical area beneath it, is not full and opaque covering within the meaning of this section.
- C. This section shall not be construed to prohibit:
1. The act of breastfeeding or expressing breast milk;
 2. Classes, seminars, and lectures held for serious scientific or educational purposes;
 3. Expressive conduct that is not obscene, subject to the time, place, and manner restrictions contained in chapters 5.06 MVMC; 5.13 MVMC or 17.73 MVMC or other State or Federal law;
 4. Conduct of licensed adult entertainers within adult entertainment dance studios operating pursuant to chapter 5.06 MVMC ;
 5. Conduct of licensed employees working as escorts or nude house cleaners in adult businesses operating pursuant to chapter 5.13 MVMC , provided that the conduct is not exposed to a person under 18 years of age; or
 6. Conduct of a child under 10 years of age.
- D. Lewd conduct is a misdemeanor; however, if a person exposes himself or herself or performs any lewd act or facilitates lewd conduct as set forth in MVMC 9.19.050 to a person under the age of 14 years, then the lewd conduct is a gross misdemeanor.

SECTION 4. That a new section 9.19.060 of the Mount Vernon Municipal Code is hereby created which section shall read as follows:

9.19.060 Facilitating lewd conduct.

The owner, lessee, manager, operator, or other person in charge of a public place is guilty of facilitating lewd conduct if the person knowingly permits, encourages, or causes to be committed lewd conduct as defined in MVMC 9.19.040.

SECTION 5. That a new section 9.19.070 of the Mount Vernon Municipal Code is hereby created which section shall read as follows:

9.19.070 Severability.

If any section, sentence, clause or phrase of this chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this chapter.

SECTION 6. **Savings Clause.** All previous ordinances including Ordinance No. 3536 which may be repealed in part or their entirety by this ordinance, shall remain in force and effect until the effective date of this ordinance.

SECTION 7. **Effective Date.** This Ordinance shall take effect five days after its publication.

Adopted this 26th day of October, 2016

City of Mount Vernon



Jill Boudreau, Mayor

ATTEST:



Alicia Huschka, City Finance Director

Approved as to Form:



Kevin Rogerson, City Attorney

Date of Publication: Oct 30, 2016
Effective Date: _____

The Mount Vernon City Council adopted Ordinance 3699 on October 26, 2016. An Ordinance of the City of Mount Vernon, Washington, relating to offenses against public morals, prohibiting certain conduct; repealing and re-enacting Sections 9.19.030-9.19.040 of the Mount Vernon Municipal Code, adding new code sections, and prescribing penalties. Anyone wishing to view or receive the ordinance in its entirety should contact the Mount Vernon Finance Office, 910 Cleveland, Mount Vernon WA 98273.

Published: October 30, 2016

RESOLUTION NO. 920

**A RESOLUTION OF THE CITY OF MOUNT VERNON, WASHINGTON,
CONFIRMING THE ESTABLISHMENT OF THE ADULT ENTERTAINMENT
ZONING AND LICENSING COMMITTEE**

WHEREAS the Office of Mayor has established a citizen's advisory committee to assist the City in developing permanent development and licensing regulation for adult entertainment known as the Adult Entertainment Zoning and Licensing Committee pursuant to its executive powers and under Resolution 491; and

WHEREAS Resolution 491 calls for the City Council to confirm by resolution a Citizen's Advisory Committee utilized through the City's public participation program; and

WHEREAS the City finds that adult entertainment uses that are improperly sited or regulated will have significant and far reaching impacts to the City's public health, safety, welfare and morals and that a committee of citizen to study the issue and receive public testimony will greatly assist the legislative body in adopting permanent development regulations tailored to addressing such impacts.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MOUNT VERNON:

- A. That the Mayor's Adult Entertainment Zoning and Licensing Committee is hereby confirmed.
- B. That the Adult Entertainment Zoning and Licensing Committee shall be comprised of at least 5 members who shall be appointed by the Mayor.
- C. Mayor shall further have authority to reappoint or appoint replacement members as the need arises.

Adopted at a regular meeting of the City Council of the City of Mount Vernon, Washington, held on the October 26th, 2016.

By  _____
JILL BOUDREAU, Mayor

Attest:  _____
ALICIA HUSCHKA, Finance Director

Approved as to form:



KEVIN ROGERSON, City Attorney

Published _____

APPENDIX B

**COMMITTEE'S
AGENDAS AND MINUTES**

ADULT ENTERTAINMENT ADVISORY COMMITTEE AGENDA

Kick Off Meeting

November 29, 2016

5:15 PM – 6:15 PM

City Hall - 910 Cleveland Ave

Downstairs Conference Room

5:15 – 5:35

INTRODUCTION

Committee/Staff Introductions

Why are we here?

General Rules/Procedures:

- Committee subject to Open Public Meetings Act
- Roberts Rules of Order
- Appoint Chairperson and Second (alternative) Chairperson
- Scheduling Future Meetings

5:35 – 5:50

REGULATION OF ADULT ENTERTAINMENT/USES

Overview by Kevin Rogerson, City Attorney

Review of Ordinance 3698

5:50 – 6:05

PLANNING STUDY

Overview by Rebecca Lowell

6:05 – 6:15

PUBLIC COMMENTS

Public comment or testimony to be taken should anyone wish to attend and provide such comment or testimony

6:15

ADJOURN

ATTACHED:

- Portions of: The Open Public Meetings Act, MRSC, June 2016
- Introduction to Roberts Rules of Order
- Ordinance 3698
- Planning Study Narrative

City of Mount Vernon
Adult Entertainment Zoning and Licensing Committee
APPROVED - Minutes from November 29, 2016

The meeting was called to order and began with introductions of those present. City staff members included City Attorney Kevin Rogerson, Senior Planner Rebecca Lowell and Administrative Assistant Linda Beacham. Committee members Kathleen Bisagna, Kari Mattson, Lisa Zacherl, and Ryan Hagman were present. Committee member Brian Gentry was available by speaker phone. Committee member Rudy Kerkvliet was absent. Skagit Valley Herald reporter Brandon Stone and local resident and non-committee member Patrick Lescot were also in attendance.

Mr. Rogerson provided an overview of the work-plan outlined in Ordinance No. 3698 adopted by City Council October 26, 2016. Ordinance 3698 is an ordinance that adopts interim control regulations while the committee and staff develop final regulations. Although adult entertainment is protected under the First Amendment, restrictions such as time, place, manner and secondary impacts can be applied. Committee members and City staff will work together in reviewing current city code and making recommendations for adult entertainment businesses to the Planning Commission.

The committee members were also briefed on the Open Public Meetings Act, public records and Roberts Rules of Order.

Committee member Lisa Zacherl was selected to serve as chairperson, and Ryan Hagman to serve as second chairperson. Mrs. Bisagna moved, second by Kari Mattson, to approve the selection of officers. Motion carried.

Following a discussion on future meeting dates the meeting adjourned.

The Open Public Meetings Act

How it Applies to Washington Cities, Counties,
and Special Purpose Districts

The Open Public Meetings Act

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June 2016
\$30

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9	What Procedural Requirements Apply to Meetings?
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28	What Are the Penalties for Violating the Act?
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Foreword

This is the second revision of our original September 1997 publication on the Open Public Meetings Act. Issues involving public meetings of governing bodies of cities, towns, counties, and special purpose districts continue to figure prominently in inquiries to MRSC legal consultants. This publication is intended for use by city, town, county, and special purpose district officials and is intended to provide general guidance in understanding the policies and principles underlying this important law.

Special acknowledgment is given to Bob Meinig, Legal Consultant, who prepared this publication. Thanks are also due to Pam James, Legal Consultant, for her editing, and to Holly Stewart, Desktop Publishing Specialist, for designing the publication.

Introduction

In 1971, the state legislature enacted the Open Public Meetings Act (the “Act”) to make the conduct of government more accessible and open to the public. The Act begins with a strongly worded statement of purpose:¹

The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.²

Codified in chapter 42.30 RCW, the Act applies to all city and town councils,³ to all county councils and boards of county commissioners, and to the governing bodies of special purpose districts, as well as to many subordinate city, county, and special purpose district commissions, boards, and committees. It requires, basically, that all “meetings” of such bodies be open to the public and that all “action” taken by such bodies be done at meetings that are open to the public. The terms “meetings” and “action” are defined broadly in the Act and, consequently, the Act can have daily significance for cities, counties, and special purpose districts even when no formal meetings are being conducted.

¹RCW 42.30.010.

²Throughout this publication, indented quotations in italics are statutory language.

³For convenience, the term “city council” will in this publication also refer to town councils and to city commissions under the commission form of government. There is currently only one city in the state, Shelton, that is governed by the commission form of government.

This publication comprehensively reviews the Act as it applies to Washington cities, towns, counties, and special purpose districts.⁴ It also provides answers to selected questions that have been asked of MRSC staff concerning application of the Act. However, we find that new questions constantly arise concerning the Act. So, if you have questions that are not addressed by this publication, do not hesitate to contact your legal counsel or MRSC legal staff.

⁴There is no single uniform definition of a special purpose district in state law. In general, a special purpose district is any unit of local government other than a city, town, or county that is authorized by law to perform a single function or a limited number of functions, such as water-sewer districts, irrigation districts, fire districts, school districts, port districts, hospital districts, park and recreation districts, transportation districts, diking and drainage districts, flood control districts, weed districts, mosquito control districts, metropolitan municipal corporations, etc.

2 *Open Public Meetings Act*

Who Is Subject to the Act?

The basic mandate of the Open Public Meetings Act is as follows:

All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter.⁵

The Act applies to “meetings” of a “governing body” of a “public agency.” A “public agency” includes a city, county, and special purpose district.⁶ A “governing body” is defined in the Act as follows:

“Governing body” means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.

The legislative bodies of cities and counties⁷ clearly are governing bodies under this definition, as are the boards or commissions that govern special purpose districts. However, they are not the only governing bodies to which the Act applies. The Act also applies to any “subagency” of a city, county, or special purpose district,⁸ because the definition of “public agency” includes:

Any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies.⁹

Under this definition, the subagency must be created by some legislative act of the governing body, such as an ordinance or resolution. A group established by a mayor to advise him or her

⁵RCW 42.30.030.

⁶RCW 42.30.020(1)(b).

⁷The legislative bodies of cities are the city councils or city commissions, and the legislative bodies of counties are the boards of county commissioners or county councils.

⁸Most special purpose district governing bodies do not have the authority to create such subagencies.

⁹RCW 42.30.020(1)(c).

could not, for example, be a subagency, because a mayor does not act legislatively. However, a legislative act alone does not create a subagency. According to the attorney general's office, a board or a commission or other body is not a subagency governed by the Act

unless it possesses some aspect of policy or rulemaking authority. In other words, its “advice,” while not binding upon the agency with which it relates . . . , must nevertheless be legally a necessary antecedent to that agency's action.¹⁰

If a board or commission (or whatever it may be termed) established by legislative action is merely advisory and its advice is not necessary for the city, county, or district to act, the Act generally does not apply to it.

Given the above definitions, the following are governing bodies within city and county government that *are subject* to the Act:

- City council or commission
- County council or board of commissioners
- Planning commission
- Civil service commission
- Board of adjustment

Other boards or commissions will need to be evaluated individually to determine whether the Act applies to them. For example, the definition of a subagency identifies library boards, but, in some cities (particularly those without their own libraries), library boards function as purely advisory bodies, without any policymaking or rulemaking authority. That type of a library board would not be subject to the Act. In cities where library boards function under statutory authority¹¹ and possess policymaking and rulemaking authority, those boards must follow the requirements of the Act.

Most special purpose districts have only one “governing body” under the meaning of that term in the Act.

In some circumstances, the Act applies to a committee of a governing body. As a practical matter, city or county legislative bodies are usually the only governing bodies with committees to which the Act may apply. A committee of a city or county legislative body will be subject to the Act in the following circumstances:

¹⁰AGO 1971 No. 33, at 9. The attorney general's office bases its conclusion on this issue on the language "or other policy or rulemaking body of a public agency" in the definition of "governing body" in RCW 42.30.020(2), quoted above. See also AGLO 1972 No. 48.

¹¹RCW 27.12.210.

- when it acts on behalf of the legislative body¹²
- when it conducts hearings, or
- when it takes testimony or public comment.

When a committee is not doing any of the above, it is not subject to the Act.¹³

Keep in mind that it is usually good public policy to open the meetings of city, county, and special district governing bodies to the public, even if it is uncertain or doubtful that the Act applies to them. Secrecy is rarely warranted, and the Act's procedural requirements are not onerous. This approach would be consistent with the Act's basic intent that the actions of governmental bodies “be taken openly and that their deliberations be conducted openly.”¹⁴

Further Questions

May four councilmembers-elect of a seven-member council meet before taking their oaths of office without procedurally complying with the Act?

Yes. Councilmembers-elect are not yet members of the governing body and cannot take “action” within the meaning of the Act, and so they are not subject to the Act.¹⁵

Must a committee of the governing body be composed solely of members of the governing body for it to be subject to the Act under the circumstances identified in RCW 42.30.020(2)?

This statute defines a “governing body” to include a “committee thereof” when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.” (Emphasis added.) Does a “committee thereof” include only members of the governing body? The state supreme court has held that a “committee thereof,” an entity created or specifically authorized by the governing body, may include or consist of individuals who are not members of the governing body.¹⁶

¹²In a 2015 decision, the state supreme court adopted the reasoning of AGO 1986 No. 16 in concluding that a committee acts on behalf of the governing body “when it exercises actual or de facto decision making authority.” *Citizens Alliance v. San Juan County*, ___ Wn.2d ___ (2015). A committee when it is exercising actual or de facto decision making authority should be distinguished from the situation where a committee simply provides advice or information to the governing body and is not subject to the OPMA. *Id.*

¹³While the definition of “governing body” speaks of “when” a committee acts so as to come within that definition, the courts have not been clear about whether a committee is subject to the Act for all of its meetings when it is only at some that it is acting in that manner. See *Clark v. City of Lakewood*, 259 F.3d 996 (9th Cir. 2001).

¹⁴RCW 42.30.010.

¹⁵*Wood v. Battle Ground School Dist.*, 107 Wn. App. 550, 561 (2001).

¹⁶*Citizens Alliance v. San Juan County*, ___ Wn.2d ___ (2015).

What Is a “Meeting”?

There must be a “meeting” of a governing body for the Act to apply. Sometimes it is very clear that a “meeting” must be open to the public, but other times it isn't. To determine whether a governing body is having a “meeting” that must be open, it is necessary to look at the Act's definitions. The Act defines “meeting” as follows: “‘Meeting’ means meetings at which action is taken.”¹⁷ “Action,” as referred to in that definition of “meeting,” is defined as follows:

*“Action” means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. “Final action” means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.*¹⁸

Since a governing body can transact business when a quorum (majority) of its members are present,¹⁹ it is conducting a meeting subject to the requirements of the Open Public Meetings Act whenever a majority of its members gathers with the collective intent of transacting the governing body’s business.²⁰ This includes simply discussing some matter having to do with agency business. Because members of a governing body may discuss the business of that body by telephone or e-mail, it is not necessary that the members be in the physical presence of each other for there to be a meeting subject to the Act.²¹ See the “Further Questions” at the end of this section. Also, it is not necessary that a governing body take “final action”²² for a meeting subject to the Act to occur.

Note that it does not matter if the meeting is called a “workshop,” a “study session,” or a “retreat”; it is still a meeting subject to the Open Public Meetings Act if a quorum is addressing the business of the city, county, or special purpose district. If a governing body just meets

¹⁷RCW 42.30.020(4).

¹⁸RCW 42.30.020(3).

¹⁹See, e.g., RCW 35A.12.120; 35.23.270; 35.27.280; 36.32.010.

²⁰*Citizens Alliance v. San Juan County*, ___ Wn.2d ___ (2015).

²¹*Id.*; *Wood v. Battle Ground School Dist.*, 107 Wn. App. 550, 562 (2001).

²²RCW 42.30.020(3) defines “final action” as “a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.”

socially or travels together, it is not having a meeting subject to the Act as long as the members do not discuss agency business or otherwise take “action.”²³

Further Questions

If a majority or more of the members of a governing body discuss city, county, or district business by telephone or e-mail, are they having a meeting subject to the Act?

Since the members of a governing body can discuss city, county, or district business together by telephone or by e-mail so as to be taking “action” within the above definition, the governing body can conduct a meeting subject to the Act even when the members are not in the physical presence of one another²⁴ This type of meeting could take many forms, such as a conference call among a majority or more of the governing body, a telephone “tree” involving a series of telephone calls, or an exchange of e-mails. Since the public could not, as a practical matter, attend this type of “meeting,” it would be held in violation of the Act.²⁵

Given the increasingly prevalent use of e-mail and the nature of that technology, members of city councils, boards of county commissioners, and special district governing bodies must be careful when communicating with each other by e-mail so as not to violate the Act. However, such bodies will not be considered to be holding a meeting if one member e-mails the other members merely for the purpose of providing relevant information to them. As long as the other members only “passively receive” the information and a discussion regarding that information is not then commenced by e-mail amongst a quorum, there is no Open Public Meetings Act issue.²⁶

May one or more members of a governing body “attend” a meeting by telephone?

Although no courts in this state have addressed this question, it probably would be permissible for a member of a governing body to “attend” a meeting by telephone, with the permission of the body, *if* that member's voice could be heard by all present, including the public, and if that member could hear all that is stated at the meeting. Some sort of speaker phone equipment would be necessary for this to occur. If a governing body decides

²³RCW 42.30.070; *In re Recall of Roberts*, 115 Wn.2d 551, 554 (1990).

²⁴*Citizens Alliance v. San Juan County*, ___ Wn.2d ___ (2015); *Wood v. Battle Ground School Dist.*, 107 Wn. App. 550, 562-63 (2001).

²⁵Though, at least one local government in this state has held an online meeting of its governing body, providing notice under the Act and giving the public the opportunity to “attend.”

²⁶*Id.*

to allow participation by telephone, it is advisable to authorize such in its rules, including under what circumstances it will be allowed.

May a quorum of a city or county legislative body attend, as members of the audience, a citizens' group meeting?

Yes, provided that the members attending the meeting do not discuss, as a group, city or county or district business, as the case may be, or otherwise take "action" within the meaning of the Act.²⁷ That possibility could in most circumstances be avoided by not sitting as a group.

May an entire county council attend a private dinner in honor of the out-going county official without complying with the Open Public Meetings Act?

Again, the issue comes down to whether the council will be dealing with county business. It can be argued that honoring the county official is itself county business. On the other hand, it could be argued that honoring an individual who is leaving county employment does not involve the functioning of the county. This is a gray area where caution should be exercised.

Must the public be allowed to attend the annual city council retreat?

Yes. A retreat attended by a quorum of the council where issues of city business are addressed constitutes a meeting.

²⁷See AGO 2006 No. 6.

What Procedural Requirements Apply to Meetings?

The Act establishes some basic procedural requirements that apply to all meetings of a governing body, whether they are regular or special meetings. *All meetings of a governing body are, under the Open Public Meetings Act, either regular or special meetings.* It does not matter if it is called a “study session” or a “workshop” or a “retreat,” it is either a regular or special meeting.

What is a regular meeting?

A regular meeting is one that is held according to a schedule adopted by ordinance, resolution, order, or rule, as may be appropriate for the governing body.²⁸

What is a special meeting?

A special meeting is any meeting that is not a regular meeting. In other words, special meetings are not held according to a fixed schedule. Under the Act, special meetings have specific notice requirements, as discussed below. Also, governing bodies may be subject to specific limitations about what may be done at a special meeting.²⁹

What procedural requirements apply to all meetings of a governing body?

The following requirements and prohibitions apply to both regular and special meetings of a governing body:

²⁸See RCW 42.30.060, .070, .080. Also, state law, though not the Open Public Meetings Act, may require the governing body of a city, county, or special district to meet with a certain regularity, such as monthly. For example, second class and code city councils, town councils, and the board of directors of any school district must meet at least once a month. RCW 35.23.181; RCW 35.27.270; RCW 35A.12.110; RCW 28A.343.380.

²⁹For example, second class city councils may not pass an ordinance or approve a contract or a bill for the payment of money at a special meeting. RCW 35.23.181. Town councils may not pass a resolution or order for the payment of money at a special meeting. RCW 35.27.270. Many special purpose districts are subject to requirements that certain actions can be taken only at a regular meeting, i.e., not at a special meeting. See, e.g., RCW 54.16.100 (appointment and removal of public utility district manager); RCW 85.05.410 (setting compensation of board of diking district commissioners). The councils of first class and code cities and county legislative bodies have no specific limitations on actions that may be taken at a special meeting, other than those imposed by the Open Public Meetings Act.

- All meetings must be open to the public.³⁰
- A member of the public may not be required as a condition of attendance to register his or her name or other information, or complete a questionnaire, or be required to fulfill any other condition to be allowed to attend.³¹
- The governing body may require the removal of members of the public who disrupt the orderly conduct of a meeting. If order cannot be restored by removal of individuals, the governing body may order the meeting room cleared and may continue in session or it may adjourn and reconvene the meeting at another location, subject to the limitations in RCW 42.30.050.³²
- Votes may not be taken by secret ballot.³³
- Meetings may be adjourned or continued subject to the procedures in RCW 42.30.090, as discussed below.
- The governing body may meet in executive (closed) session, but only for one of the reasons specified in and in accordance with the procedures identified in RCW 42.30.110. See discussion on executive sessions.

Although the Act gives the public the right to attend meetings, the public has no statutory right to speak at meetings. However, as a practical and policy matter, city, county, and special district governing bodies generally provide the public some opportunity to speak at meetings.

The Open Public Meetings Act does not require that a city or county legislative body or special district governing body hold its meetings within the city or in a particular place in the county or district. However, other statutes provide that the councils of code cities, second class cities, and towns may take final actions on ordinances and resolutions only at a meeting within the city or town.³⁴ Also, county legislative bodies must hold their regular meetings at the county seat,³⁵ but

³⁰RCW 42.30.030.

³¹RCW 42.30.040.

³²That statute provides in relevant part as follows

In such a session, final disposition may be taken only on matters appearing on the agenda. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the governing body from establishing a procedure for readmitting an individual or individuals not responsible for disturbing the orderly conduct of the meeting.

³³RCW 42.30.060(2). Any vote taken by secret ballot is null and void.

³⁴RCW 35.23.181; 35.27.270; 35A.12.110. Although meetings need not necessarily be held within a city, when a governing body decides to hold one outside the city, it should not site the meeting at a place so far from the city as to effectively prevent the public from attending.

³⁵RCW 36.32.080.

may hold special meetings in the county outside of the county seat if there are agenda items that “are of unique interest or concern” to the residents of the area of the county in which the meetings are held.³⁶ Some special purpose district governing bodies, such as first class school district boards of directors,³⁷ are specifically required to hold their regular meetings within the district, while others, such as irrigation districts,³⁸ are specifically required to hold meetings in the county where the district is located. Where the statutes are silent as to where meetings must be held for a particular type of district, they should be held, if possible, within the district or, at the very least, within the county in which the district is located.

What procedural requirements apply specifically to regular meetings?

- The date and time of regular meetings must be established by ordinance, resolution, order, or rule, as may be required for the particular governing body.³⁹
- If the regular meeting date falls on a holiday, the meeting must be held on the next business day.⁴⁰
- The meeting agenda must be made available online at least 24 hours in advance of the regular meeting.⁴¹ This requirement does not apply if the city, county, or district does not have a website or if it employs fewer than 10 full-time equivalent employees.

What procedural requirements apply specifically to special meetings?

The procedural requirements that apply to special meetings deal primarily with the notice that must be provided. These requirements, contained in RCW 42.30.080, are as follows:

³⁶RCW 36.32.090.

³⁷RCW 28A.330.070.

³⁸RCW 87.03.115.

³⁹The Act does not directly address designating (in the ordinance, resolution, order, or rule designating the date and time of regular meetings) the place at which regular meetings will be held. RCW 42.30.070. However, the statutes governing the particular classes of cities, except those governing first class cities, require designation of the site of regular council meetings. RCW 35A.12.110; 35.23.181; 35.27.270. The county statutes and those relating to special purpose districts do not address designating the site of regular meetings. However, counties, first class cities, and special purpose districts should, of course, also designate the site of regular meetings along with the designation of the date and time of those meetings.

⁴⁰RCW 42.30.070.

⁴¹Laws of 2014, ch. 61, § 2. This requirement does not mean that the agenda cannot be modified after it is posted online. Also, a failure to comply with this requirement with respect to a meeting will not invalidate an otherwise legal action taken at the meeting.

- A special meeting may be called by the presiding officer or by a majority of the members of the governing body.⁴²
- Written notice must be delivered personally, by mail, by fax, or by e-mail at least 24 hours before the time of the special meeting to:
 - each member of the governing body, and to
 - each local newspaper of general circulation and each local radio or television station that has on file with the governing body a written request to be notified of that special meeting or of all special meetings.⁴³
- Notice of the special meeting must be provided to the public as follows:
 - “prominently displayed” at the main entrance of the agency’s principal location, and at the meeting site if the meeting will not held at the agency’s principal location; and
 - posted on the agency’s web site. Web site posting is not required if the agency:
 - does not have a web site;
 - has fewer than 10 full-time equivalent employees; or
 - does not employ personnel whose job it is to maintain or update the web site.
- The notice must specify:
 - the time and place of the special meeting, and
 - the business to be transacted at the special meeting.

⁴²There is a conflict between the provision in RCW 42.30.080 authorizing a majority of the members of a governing body to call a special meeting and the provision for code cities in RCW 35A.12.110 authorizing three members of the city council to call a special meeting. This conflict occurs only with respect to a code city with a seven-member council, because three members is less than a majority. Since RCW 42.30.140 provides that the provisions of the Act will control in case of a conflict between it and another statute, four members of a seven-member code city council, not three, are needed to call a special meeting.

⁴³Note also that statutes relating to each class of city require that cities

establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the city's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or such other processes as the city determines will satisfy the intent of this requirement.

RCW 35A.12.160; 35.22.288; 35.23.221; 35.27.300. There are no similar statutes that apply to counties or special purpose districts. Nevertheless, we recommend that counties and special districts establish like procedures for notifying the public.

- The governing body may take final action *only* concerning matters identified in the notice of the meeting.⁴⁴
- Written notice to a member or members of the governing body is not required when:
 - a member files at or prior to the meeting a written waiver of notice or provides a waiver by telegram, fax, or e-mail; or
 - the member is present at the meeting at the time it convenes.
- Special meeting notice requirements may be dispensed with when a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when the time requirements of the notice would make notice impractical and increase the likelihood of such injury or damage.⁴⁵ An emergency meeting must, nevertheless, be open to the public.⁴⁶

What procedural requirements apply to adjournments of regular or special meetings?

A regular or special meeting may be adjourned to a specified time and place, where it will be continued. There are a number of circumstances under which a meeting might be adjourned. A meeting may be adjourned and continued to a later date because the governing body did not complete its business. The Act, in RCW 42.30.090, addresses two other circumstances under which a meeting may be adjourned and continued at a later date:

- When the governing body does not achieve a quorum. In that circumstance, less than a quorum may adjourn a meeting to a specified time and place; or
- When all members are absent from a *regular meeting* or an *adjourned regular meeting*. In that instance, the clerk of the governing body may adjourn the meeting to a stated time and place, with notice provided as required for a special meeting, unless notice is waived as provided for special meetings. However, the resulting meeting is still considered a regular meeting.

Notice of an adjourned meeting is to be provided as follows:

- An order or notice of adjournment, specifying the time and place of the meeting to be continued, must be “conspicuously posted” immediately following adjournment on or

⁴⁴This does not prevent a governing body from discussing or otherwise taking less than final action with respect to a matter not identified in the notice.

⁴⁵The type of emergency contemplated here is a severe one that “involves or threatens physical damage” and requires urgent or immediate action. *Mead Sch. Dist. No. 354 v. Mead Educ. Ass’n*, 85 Wn.2d 140, 144-45 (1975).

⁴⁶*Teaford v. Howard*, 104 Wn.2d 580, 593 (1985)

near the door of the place where the meeting was held.

- Notice of a regular meeting adjourned by the clerk when all members of the governing body are absent must be provided in the same manner as for special meetings.
- If the notice or order of an adjourned meeting fails to state the hour at which the adjourned meeting is to be held, it must be held at the hour specified for regular meetings by ordinance, resolution, or other rule.

If the governing body is holding a hearing, the hearing may be continued at a later date by following the same procedures for adjournment of meetings.⁴⁷

Further Questions

Must a city, county, or special purpose district provide published notice of a special meeting?

No, not under the Open Public Meetings Act. While notice must be provided to media that have on file a request to be notified of special meetings, this is not equivalent to a publishing requirement. Of course, if the governing body has adopted a requirement of published notice for special meetings, that requirement must be followed.

May notice to the media of a special meeting be provided by fax or e-mail?

Yes. Legislation passed in 2005 amended RCW 42.30.080 to allow notice by fax or e-mail.

May a governing body prohibit a member of the public from tape recording or videotaping a meeting?

No, there is no legal basis for prohibiting the audio or videotaping of a meeting, unless the taping disrupts the meeting. If the governing body enacted such a rule, it essentially would be conditioning attendance at a meeting on not recording the meeting. This would be contrary to RCW 42.30.040, which prohibits a governing body from imposing any condition on attending a public meeting.⁴⁸

⁴⁷RCW 42.30.100.

⁴⁸See AGO 1998 No. 15.

ROBERT'S RULES OF ORDER - SUMMARY VERSION

INTRODUCTION TO ROBERT'S RULES OF ORDER

(Taken from: <http://www.robertsrules.org/>)

What Is Parliamentary Procedure?

It is a set of rules for conduct at meetings that allows everyone to be heard and to make decisions without confusion.

Why is Parliamentary Procedure Important?

Because it's a time tested method of conducting business at meetings and public gatherings. It can be adapted to fit the needs of any organization. Today, Robert's Rules of Order newly revised is the basic handbook of operation for most clubs, organizations and other groups. So it's important that everyone know these basic rules!

Organizations using parliamentary procedure usually follow a fixed order of business. Below is a typical example:

1. Call to order.
2. Roll call of members present.
3. Reading of minutes of last meeting.
4. Officer's reports.
5. Committee reports.
6. Special orders --- Important business previously designated for consideration at this meeting.
7. Unfinished business.
8. New business.
9. Announcements.
10. Adjournment.

The method used by members to express themselves is in the form of moving motions. A motion is a proposal that the entire membership take action or a stand on an issue. Individual members can:

1. Call to order.
2. Second motions.
3. Debate motions.
4. Vote on motions.

How are Motions Presented?

1. Obtaining the floor
 - a. Wait until the last speaker has finished.
 - b. Rise and address the Chairman by saying, "Mr. Chairman, or Mr. President."
 - c. Wait until the Chairman recognizes you.
2. Make Your Motion
 - d. Speak in a clear and concise manner.
 - e. Always state a motion affirmatively. Say, "I move that we ..." rather than, "I move that we do not ..."
 - f. Avoid personalities and stay on your subject.
3. Wait for Someone to Second Your Motion
4. Another member will second your motion or the Chairman will call for a second.
5. If there is no second to your motion it is lost.

6. The Chairman States Your Motion
 - a. The Chairman will say, "it has been moved and seconded that we ..." Thus placing your motion before the membership for consideration and action.
 - b. The membership then either debates your motion, or may move directly to a vote.
 - c. Once your motion is presented to the membership by the chairman it becomes "assembly property", and cannot be changed by you without the consent of the members.
7. Expanding on Your Motion
 - a. The time for you to speak in favor of your motion is at this point in time, rather than at the time you present it.
 - b. The mover is always allowed to speak first.
 - c. All comments and debate must be directed to the chairman.
 - d. Keep to the time limit for speaking that has been established.
 - e. The mover may speak again only after other speakers are finished, unless called upon by the Chairman.
8. Putting the Question to the Membership
 - a. The Chairman asks, "Are you ready to vote on the question?"
 - b. If there is no more discussion, a vote is taken.
 - c. On a motion to move the previous question may be adapted. Voting on a Motion:

The method of vote on any motion depends on the situation and the by-laws of policy of your organization. There are five methods used to vote by most organizations, they are:

1. By Voice -- The Chairman asks those in favor to say, "aye", those opposed to say "no". Any member may move for a exact count.
2. By Roll Call -- Each member answers "yes" or "no" as his name is called. This method is used when a record of each person's vote is required.
3. By General Consent -- When a motion is not likely to be opposed, the Chairman says, "if there is no objection ..." The membership shows agreement by their silence, however if one member says, "I object," the item must be put to a vote.
4. By Division -- This is a slight verification of a voice vote. It does not require a count unless the chairman so desires. Members raise their hands or stand.
5. By Ballot -- Members write their vote on a slip of paper, this method is used when secrecy is desired.

There are two other motions that are commonly used that relate to voting.

1. Motion to Table -- This motion is often used in the attempt to "kill" a motion. The option is always present, however, to "take from the table", for reconsideration by the membership.
2. Motion to Postpone Indefinitely -- This is often used as a means of parliamentary strategy and allows opponents of motion to test their strength without an actual vote being taken. Also, debate is once again open on the main motion.

Parliamentary Procedure is the best way to get things done at your meetings. But, it will only work if you use it properly.

1. Allow motions that are in order.
2. Have members obtain the floor properly.
3. Speak clearly and concisely.
4. Obey the rules of debate.

Most importantly, *BE COURTEOUS*.

For Fair and Orderly Meetings & Conventions

Provides common rules and procedures for deliberation and debate in order to place the whole membership on the same footing and speaking the same language. The conduct of ALL business is controlled by the general will of the whole membership - the right of the deliberate majority to decide. Complementary is the right of at least a strong minority to require the majority to be deliberate - to act according to its considered judgment AFTER a full and fair "working through" of the issues involved. Robert's Rules provides for constructive and democratic meetings, to help, not hinder, the business of the assembly. Under no circumstances should "undue strictness" be allowed to intimidate members or limit full participation.

The fundamental right of deliberative assemblies requires all questions to be thoroughly discussed before taking action!

The assembly rules - they have the final say on everything! Silence means consent!

- Obtain the floor (the right to speak) by being the first to stand when the person speaking has finished; state Mr/Madam Chairman. Raising your hand means nothing, and standing while another has the floor is out of order! Must be recognized by the Chair before speaking!
- Debate cannot begin until the Chair has stated the motion or resolution and asked "are you ready for the question?" If no one rises, the chair calls for the vote!
- Before the motion is stated by the Chair (the question) members may suggest modification of the motion; the mover can modify as he pleases, or even withdraw the motion without consent of the seconder; if mover modifies, the seconder can withdraw the second.
- The "immediately pending question" is the last question stated by the Chair! Motion/Resolution - Amendment - Motion to Postpone
- The member moving the "immediately pending question" is entitled to preference to the floor!
- No member can speak twice to the same issue until everyone else wishing to speak has spoken to it once!
- All remarks must be directed to the Chair. Remarks must be courteous in language and deportment - avoid all personalities, never allude to others by name or to motives!
- The agenda and all committee reports are merely recommendations! When presented to the assembly and the question is stated, debate begins and changes occur!

THE RULES

- **Point of Privilege:** Pertains to noise, personal comfort, etc. - may interrupt only if necessary!
- **Parliamentary Inquiry:** Inquire as to the correct motion - to accomplish a desired result, or raise a point of order
- **Point of Information:** Generally applies to information desired from the speaker: "I should like to ask the (speaker) a question."
- **Orders of the Day (Agenda):** A call to adhere to the agenda (a deviation from the agenda requires Suspending the Rules)
- **Point of Order:** Infraction of the rules, or improper decorum in speaking. Must be raised immediately after the error is made
- **Main Motion:** Brings new business (the next item on the agenda) before the assembly
- **Divide the Question:** Divides a motion into two or more separate motions (must be able to stand on their own)
- **Consider by Paragraph:** Adoption of paper is held until all paragraphs are debated and amended and entire paper is satisfactory; after all paragraphs are considered, the entire paper is then open to amendment, and paragraphs may be further amended. Any Preamble cannot be considered until debate on the body of the paper has ceased.

- **Amend:** Inserting or striking out words or paragraphs, or substituting whole paragraphs or resolutions
- **Withdraw/Modify Motion:** Applies only after question is stated; mover can accept an amendment without obtaining the floor
- **Commit /Refer/Recommit to Committee:** State the committee to receive the question or resolution; if no committee exists includes size of committee desired and method of selecting the members (election or appointment).
- **Extend Debate:** Applies only to the immediately pending question; extends until a certain time or for a certain period of time
- **Limit Debate:** Closing debate at a certain time, or limiting to a certain period of time
- **Postpone to a Certain Time:** State the time the motion or agenda item will be resumed
- **Object to Consideration:** Objection must be stated before discussion or another motion is stated
- **Lay on the Table:** Temporarily suspends further consideration/action on pending question; may be made after motion to close debate has carried or is pending
- **Take from the Table:** Resumes consideration of item previously "laid on the table" - state the motion to take from the table
- **Reconsider:** Can be made only by one on the prevailing side who has changed position or view
- **Postpone Indefinitely:** Kills the question/resolution for this session - exception: the motion to reconsider can be made this session
- **Previous Question:** Closes debate if successful - may be moved to "**Close Debate**" if preferred
- **Informal Consideration:** Move that the assembly go into "**Committee of the Whole**" - informal debate as if in committee; this committee may limit number or length of speeches or close debate by other means by a 2/3 vote. All votes, however, are formal.
- **Appeal Decision of the Chair:** Appeal for the assembly to decide - must be made before other business is resumed; NOT debatable if relates to decorum, violation of rules or order of business
- **Suspend the Rules:** Allows a violation of the assembly's own rules (except Constitution); the object of the suspension must be specified

ORDINANCE NO. 3698

AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON, ENACTING INTERIM LICENSING AND ZONING REGULATIONS REPEALING AND RE-ENACTING CHAPTER 5.13 OF THE MOUNT VERNON MUNICIPAL CODE, ADDING A NEW CHAPTER 5.06 OF THE MOUNT VERNON MUNICIPAL CODE RELATING TO ADULT BUSINESS LICENSES, EMPLOYEES, AND ADOPTING REGULATIONS AMENDING MOUNT VERNON MUNICIPAL CODE TITLE 17; AND DECLARING AN EMERGENCY NECESSITATING IMMEDIATE ADOPTION OF INTERIM CONTROL REGULATIONS FOR THE ZONING, LICENSING AND REGULATION OF ADULT ENTERTAINMENT

WHEREAS, cities have the right and duty to enact laws for the protection of the public health, safety, general welfare, economic vitality and economic growth, and morals; and

WHEREAS, the City of Mount Vernon was incorporated in 1890, is a non-charter code city organized under Title 35A of the revised code of Washington with a population of thirty three thousand three hundred and fifty persons over twenty seven percent of which are under the age of 18. The City is largely defined by the Skagit River to north and east, a number of streams, some salmon bearing, and lower Skagit Valley agricultural lands which surround parts of the City. As stated in the City's comprehensive plan, one of the City's primary goals is to maintain, enhance, or establish those elements that create the quality of life for its residents by providing a rural, natural setting with small town character and community atmosphere; and

WHEREAS, the City's Comprehensive Plan was last updated on September 14, 2016 and provides in part for the following as goals and policies of the City to help protect the public health, safety, welfare, morals and economic vitality and growth of the City:

1. **GOAL LU-5** Enhance and improve the quality of single-family living environments throughout the city.
2. **POLICY LU-1.2.1** Provide development regulations that create a compatible pattern of development within established neighborhoods. the development standards shall address densities, building setbacks, parking and landscaping
3. **POLICY LU-8.2.6** Development should be designed to mitigate potential adverse impacts on adjacent properties with different zoning designations (i.e., residential or public zoning). careful consideration of impacts from lighting, landscaping, and setbacks should all be evaluated during site design
4. **GOAL LU-9:** To minimize potential noise impacts to the surrounding residential neighborhood all non-residential uses should be closed for business at reasonable times.
5. **GOAL LU-10:** Development regulations shall be adopted to reduce the negative visual, noise, odor, and exhaust impacts from garbage and recycling receptacles, loading docks, and drive through lanes
6. **HOUSING ELEMENT GOAL 1.** Promote the preservation, maintenance and enhancement of existing housing and residential neighborhoods throughout the city.

7. HEALTH AND WELLNESS ELEMENT GOAL HW-2. Improve the safety of neighborhoods and public spaces.

WHEREAS, extensive evidence has been presented to the City Council showing that the establishment and locations of adult entertainment businesses and related adult entertainment activities is associated with increased crime and/or depreciated property values, and is antithetical to the public health, welfare, safety, morals and economic vitality and growth of the community. For example, locally, Olympia, Seattle, Federal Way, Des Moines, Kelso, Everett, Snohomish County, Bellevue, among other Western Washington cities, towns and communities, have all concluded that this is the case. Nationally, studies and/or statistics from New Orleans, Denver, New York, Cleveland, Los Angeles, Louisville, Jefferson Parish Louisiana, and jurisdictions within Texas among other communities across the nation, have been cited as showing that adult entertainment businesses and activities are associated with increased crime and create nuisances that are contrary to the public health, safety, welfare, morals and economic vitality and growth of the community; and

WHEREAS, the evidence presented demonstrated that increases in crimes and types of crime involving prostitution, narcotics, sex-related crimes, and other disruptive behavior are either directly related to or associated with adult entertainment businesses and activities; and

WHEREAS, extensive evidence presented establishes that the establishment of adult entertainment businesses and their related activities is directly related to or associated with a decline in property values of nearby properties. For example, locally, Kent, Seattle, Des Moines, Bellevue, Olympia and Everett have all concluded that this is the case. Nationally, studies and/or statistics from, for example, Denver, Indianapolis, and New York have been cited as showing that adult entertainment businesses are directly related to or associated with decline in property values; and

WHEREAS, the evidence presented demonstrates that negative land use impacts including noise, trash, and traffic problems are directly related to or associated with adult entertainment businesses and their related activities; and

WHEREAS, extensive evidence presented establishes that the establishment of adult entertainment businesses and related activities is associated with a degradation of the quality of life within nearby neighborhoods and the community in general; and

WHEREAS, Over 27% of Mount Vernon's population is under the age of 18 and there is a compelling need to protect minors from criminal and unlawful activities, and their adverse secondary effects, associated with adult entertainment businesses, uses and activities; and

WHEREAS, at this time Mount Vernon has no licensing regulations regarding the operation of any sexually oriented adult entertainment business, and the City's current zoning regulations are old and out of date, do not conform to current legal standards or

judicial allowances for such regulations, have limited effectiveness and application, and only proscribe distance requirements from other sensitive uses; and

WHEREAS, the Mayor of Mount Vernon has established an “Adult Entertainment Zoning and Licensing Committee” made up of citizens and city staff who will conduct a comprehensive review of the City’s current and outdated and limited adult entertainment regulations, zoning and licensing requirements, and report to the Planning Commission in January 2017 with recommendations regarding licensing and zoning regulations for adult entertainment businesses; and

WHEREAS, there is reason to believe that there is increased interest in locating sexually oriented adult entertainment businesses in the City of Mount Vernon as evidenced by recent inquiries regarding the establishment of adult retail stores and establishments who have a history of serving the public in dress that violates the City’s current Lewd Conduct regulations; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390, as well as interpretative judicial decisions, authorize adoption of interim zoning controls and regulations with certain limitations, including the requirement to hold a public hearing on the adopted interim zoning controls/regulations within 60 days of its adoption, and the adoption of findings of facts and, if appropriate, a work plan; and

WHEREAS, in accordance with RCW 35A.63.220, interim zoning controls may be effective for no longer than six months, but may be effective for up to a year if a work plan is developed for related studies providing for such a longer period, and

WHEREAS, there is an urgent need, pending completion of the Adult Entertainment Zoning and Licensing Committee’s work and the adoption of permanent zoning and regulatory ordinances and licensing requirements, to adopt interim regulatory ordinances regarding adult entertainment businesses and sexually oriented adult entertainment uses to address the well-recognized and documented adverse secondary impacts of such businesses, uses and activities while allowing reasonable opportunities for sexually oriented adult entertainment businesses to locate and conduct their businesses within the City; and

WHEREAS, staff has prepared a draft interim licensing ordinance which is supported by the legislative records provided herein.

WHEREAS, the City Council shall after appropriate public notice, hold a public hearing on December 7th, 2016 at a regularly held meeting of the City Council on this Ordinance to consider public testimony regarding adoption of this Ordinance and adopt findings of fact justifying its action in the event such findings are not adopted prior to the hearing; and

WHEREAS, the Council has adopted a work plan pursuant to RCW 35A.63.220 and RCW 36.70A.390 which includes multiple public hearings following public notices to

complete the adoption of permanent zoning and regulatory ordinances regarding adult entertainment businesses and sexually oriented adult entertainment uses; and

WHEREAS, the City on October 17, 2016 conducted a planning report with appendices providing a land use analysis and buildable lands analysis to study where there may be reasonable opportunities for sexually oriented adult businesses to locate while minimizing secondary impact to such uses identified as item 16 in the City's Legislative Record and adopts the study as further support of this Interim Control Ordinance; and

WHEREAS, the City Council finds that the regulations, modifications and amendments contained in this Interim Control Ordinance are appropriate and necessary for the preservation of the public health, safety, welfare, economic vitality and continued economic growth of the City, and to protect Mount Vernon citizens from the adverse secondary impacts of sexually oriented adult entertainment businesses, uses and activities, while allowing reasonable opportunities for sexually oriented adult entertainment businesses to locate and conduct their businesses within the City;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNT VERNON, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. Findings

That the City Council adopts the recitals set forth above as findings of fact justifying adoption of this Interim Control Ordinance and incorporates those recitals as if set forth fully herein. The Council may adopt additional findings in the event that additional public hearings are held or evidence presented to the City Council. The City Council makes the following additional findings in support of the adoption of this Interim Control Ordinance based on the testimony and evidence presented:

1. The City Council takes legislative notice of the evidence of conduct, activities and crimes occurring in and around adult entertainment businesses located in other jurisdictions, which the Council hereby deems to be relevant to the experience in Mount Vernon, as reported in judicial opinions including for example, but not limited to, *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986), *Ino Ino, Inc. v. City of Bellevue*, 132 Wn.2d 103 (1997), *DCR, Inc. v. Pierce County*, 92 Wn.App. 660 (1998) and *Colacurcio v. City of Kent*, 163 F.3d 545 (9th Cir. 1998);
2. The City Council takes legislative notice of the evidence of conduct, activities and crimes occurring in and around adult entertainment businesses located in other jurisdictions, which the Council hereby deems to be relevant to the experience in Mount Vernon,, as reported in the studies and findings of other city and county legislative bodies that have also adopted ordinances regulating adult entertainment businesses, including by way of example, but not limited to, the cities of Olympia, New Orleans, Seattle, Federal Way, Des Moines, Kelso, Everett, Snohomish County, Bellevue, and jurisdictions within Texas.
3. The operation of adult entertainment businesses has historically and regularly been accompanied by secondary effects that are detrimental to the public health, safety,

morals, economic vitality and growth, and general welfare of the citizens of Mount Vernon. Such secondary effects include, by way of example but not limited to the following:

- a. Significant criminal activity and activities injurious to the public health, safety, morals, economic growth and vitality, and general welfare of the community;
- b. Detrimental effects on nearby businesses and residential areas; and
- c. A decline in property values in the area of the adult entertainment businesses.
- d. The history of criminal and injurious activity includes without limitation prostitution, narcotics and liquor law violations, breaches of the peace, assaults, employment or involvement of minors, sexual conduct between customers or between customers and entertainers, the opportunity for the spread of sexually transmitted diseases and the presence within the industry of individuals with hidden ownership interests and outstanding arrest warrants.

Accordingly, there is a compelling need and interest to regulate adult entertainment businesses as provided in this ordinance to protect and promote the public health, safety, morals and general welfare of the citizens of Mount Vernon.

4. The resources available for responding to problems associated with adult entertainment businesses are limited and are most efficiently and effectively utilized through appropriate zoning and a licensing and regulatory program.
5. The license fees required in this ordinance are necessary as reasonable fees imposed to help defray the costs of processing the license applications and the substantial expenses incurred by Mount Vernon in regulating the adult entertainment industry. License requirements set forth in this ordinance are necessary to detect and discourage the involvement of organized crime in the adult entertainment industry, to prevent the exploitation of minors, to assure the correct identification of persons working in adult entertainment businesses, to effectively deploy its limited law enforcement resources and in order to effectively protect the public health, safety, morals and general welfare of its citizenry, the City must be fully apprised of the identity, age and criminal background of managers in adult entertainment businesses.
6. It is necessary to have a licensed manager on the premises of an adult entertainment business during all hours of operation so there will be a person responsible for the overall operation of the business, including the actions of customers, entertainers and other employees. To monitor the actions of these individuals, a manager must be able to observe these individuals at all times.
7. To prevent the exploitation of minors, to assure the correct identification of persons working in adult entertainment businesses, to effectively deploy its limited law enforcement resources and to effectively protect the public health, safety, morals, economic vitality and growth and general welfare of its citizenry, the City must be fully apprised of the identity, age and criminal background of entertainers in adult clubs.

8. Sexually oriented adult entertainment uses are directly related to or associated with increased rates of crime including but not limited to, prostitution, narcotics, and sex-related crimes.
9. Sexually oriented adult entertainment uses are directly related to or associated with declines in property values, especially those of residential areas.
10. Sexually oriented adult entertainment uses are directly related to or associated with degradation of the quality of life within a neighborhood.
11. Exposure of sexually oriented adult entertainment uses may be particularly harmful to children and minors creating serious adverse effects on their development as mature, disciplined, and social members of the community. This is of particular concern in the City of Mount Vernon where over 27% of the population is under 18 years of age.
12. Numerous other jurisdictions have attempted to address these adverse secondary effects by regulations which limit the zones in which sexually oriented adult entertainment uses are allowed and create buffers around such uses. The City of Mount Vernon relies on the validation of these methods by the United States Supreme Court, including in Renton v. Playtime Theater and Young v. American Mini Theaters, and by the Washington State Supreme Court in Northend Cinemas v. Seattle, which recognize local governments legitimate interest in protecting and preserving the quality of life through effective land use planning.
13. Areas within close walking distance of single and multiple family dwellings should be free of sexually oriented adult entertainment land uses.
14. Areas where children could be expected to walk, patronize or recreate should be free of sexually oriented adult entertainment land uses.
15. Sexually oriented adult entertainment land uses should be located in areas of the City which are not in close proximity to residential uses, churches, parks, trails, schools, child care facilities, libraries, game arcades and other similar facilities or uses.
16. Sexually oriented adult entertainment land uses should be regulated by zoning to separate them from other dissimilar uses just as any other land use should be separated from uses with characteristics different from and incompatible with itself.
17. A reasonable time, place, manner regulation of sexually oriented adult entertainment businesses and land uses will provide for the protection of the community and its property values, and protect the residents of the community from the adverse effects of such sexually oriented adult entertainment land uses, while providing those who desire to patronize sexually oriented adult entertainment land uses such an opportunity in areas within the City which are appropriate locations of sexually oriented adult entertainment businesses and land uses;
18. Data and studies provided by staff and/or consultants have identified those areas within the City of Mount Vernon that are appropriate for location of sexually oriented adult entertainment businesses and land uses, and these studies and this data establish sufficient number of proposed sites reasonably available to adult entertainment businesses to meet existing and demonstrated demand for adult entertainment venues in the City.

19. At this time Mount Vernon has no licensing regulations regarding the operation of most sexually oriented adult businesses, and the City currently has limited or outdated or ineffective zoning regulations which give rise to an urgent need pending completion of the Adult Entertainment Zoning and Licensing Committee's work and the adoption of permanent zoning and regulatory ordinances to adopt interim regulatory ordinances regarding adult entertainment businesses and sexually oriented adult entertainment uses to address the adverse secondary impacts of such businesses and uses while still allowing reasonable opportunities for sexually oriented adult entertainment businesses to locate and conduct their businesses within the City.
20. City recently awarded a bid to complete the City's downtown flood protection project in 2017 which, once completed, shall remove large areas of the City from the 100 year FEMA regulated floodplain, and this will likely trigger an increase in interest and redevelopment of the City's historical downtown. Absent further interim regulation, such development could include sexually oriented adult entertainment businesses to locate and conduct their businesses within this historic area of the City which is characterized as mixed commercial and residential uses where people of all ages congregate including but not limited to the City's new riverfront public plaza and river trail system.
21. The City has made significant changes to its comprehensive plan including completion of its comprehensive plan review mandated under Washington State's Growth Management Act, RCW 36.70A.130.
22. Since the City's adoption of limited zoning regulations permitting adult entertainment businesses to locate in certain areas of the City in 1995, over twenty years ago, large annexations of property have occurred as well as changes to the City's comprehensive plan and development regulations have occurred which include allowing further mixed use commercial and single or multifamily residential uses in areas of the City (including but not limited to its historic downtown) where adult entertainment is currently allowed making it possible for an adult entertainment business to be sited near, adjacent, or within the same structure as single and multiple family dwellings.
23. Proximity between entertainers and customers in adult clubs and businesses facilitates sexual conduct, prostitution, transactions involving controlled substances and other crimes.
24. To prevent sexual conduct from occurring between entertainers and customers, customers must be prohibited from any stage where adult entertainment occurs and be prohibited from passing tips, gratuities or other payments directly to entertainers performing on stage.
25. To discourage customers of bars and other alcohol-serving businesses from moving to adult entertainment businesses at two a.m. for "after hours" activities, and the increased likelihood of breaches of the peace and other criminal conduct that arise from those customers, and to reduce the adverse secondary effects of adult entertainment businesses on minors and the community, it is necessary and reasonable to restrict the closing time of adult entertainment businesses.

SECTION 2. New Section. A new Chapter 5.06, Adult Entertainment Dance Studios, Adult Entertainers and Adult Entertainment Dance Studio Managers is added to the Mount Vernon Municipal Code as follows:

**ADULT ENTERTAINMENT DANCE STUDIOS, ADULT ENTERTAINERS AND
ADULT ENTERTAINMENT DANCE STUDIO MANAGERS**

Sections:

- 5.06.010 General provisions.**
- 5.06.020 Definitions.**
- 5.06.030 Adult entertainment dance studio license required.**
- 5.06.040 Prima facie evidence of adult entertainment dance studio.**
- 5.06.050 Adult entertainment dance studio license -- Application, issuance.**
- 5.06.060 Other licenses/permits not waived.**
- 5.06.070 Adult entertainment dance studio license --Renewal.**
- 5.06.080 License for managers and adult entertainers required.**
- 5.06.090 Manager's and adult entertainer's license -- Application, issuance.**
- 5.06.100 Manager's or adult entertainer's license -- Renewal.**
- 5.06.110 Adult entertainment dance studio regulations.**
- 5.06.112 Manager on premises.**
- 5.06.115 Additional requirements for adult entertainment dance studios.**
- 5.07.117 Standards of conduct.**
- 5.06.120 Inspections.**
- 5.06.125 Activities not prohibited -- Liquor licenses.**
- 5.06.130 Enforcement.**
- 5.06.135 Suspension and revocation.**
- 5.06.140 Disclaimer.**
- 5.06.150 Civil penalties.**
- 5.06.160 Criminal penalties.**
- 5.06.170 Public nuisance.**
- 5.06.180 Nonexclusive remedies.**
- 5.06.190 Severability.**

5.06.010 General provisions.

Unless specified otherwise in this chapter, the general provisions contained in chapter 5.01 MVMC shall not apply to the licenses required under this chapter.

5.06.020 Definitions.

For the purpose of this chapter the words and phrases used in this section shall have the following meanings unless the context otherwise requires:

A. "Adult entertainment" means:

1. Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance involves a person who is unclothed or in such costume, attire or clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic

- region, anus, buttocks, vulva or genitals, or wearing any device or covering exposed to view which simulates the appearance of any portion of the female breast, pubic region, anus, buttocks, vulva or genitals, or human male genitals in a discernibly turgid state, even if completely covered; or
2. Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to the following specified sexual activities:
 - a. Human genitals in a state of sexual stimulation or arousal;
 - b. Acts of human masturbation, sexual intercourse or sodomy; or
 - c. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts; or
 3. Any exhibition, performance or dance intended to sexually stimulate any patron and conducted in a premises or part of a premises where such exhibition, performance or dance is performed for, arranged with or engaged in with fewer than all patrons on the premises at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance. For purposes of example only and not limitation, such exhibitions, performances or dances are commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.
- B. "Adult entertainer" means any person who provides live adult entertainment within an adult entertainment dance studio as defined in this section whether or not a fee is charged or accepted for such entertainment.
- C. "Adult entertainment dance studio" means any business, premises or location to which any member of the public is invited or admitted and where adult entertainment is provided on a regular basis as a substantial part of the premises activity.
- D. "Applicant control person" means: (1) if a sole proprietorship, the sole proprietor; (2) if a non-publicly held partnership, whether general or limited, each partner and their respective ownership interest; or (3) if a non-publicly held corporation, every officer, director, shareholder owning 51% or more interest and any shareholder owning 50% or less who hold a significant interest in the business based on responsibility for management.
- E. "Employee" means any and all persons, including manager and adult entertainers, who work in or at or render any services directly related to the operation of an adult entertainment dance studio, regardless of whether that person is deemed statutory employee, common law employee or independent contractor.
- F. "Manager" means any person who manages, directs, administers, controls or is in charge of, the affairs and/or the conduct of any portion of any activity involving adult entertainment occurring at any premises offering adult entertainment.
- G. "Member of the public" means any customer, patron, club member, or person, other than an employee as defined in this section, who is invited or admitted to an adult entertainment dance studio.

- H. "Operator" means any person operating, conducting or maintaining an adult entertainment dance studio.
- I. "Person" means any individual, partnership, firm, joint stock company, corporation, association, trust, estate, limited liability company, limited liability partnership or other legal entity, however organized.
- J. "Sexual conduct" means acts of: (a) sexual intercourse within its ordinary meaning; or (b) any contact between persons involving the sex organs of one person and the mouth or anus of another; or (c) masturbation, manual or instrumental, of oneself or of one person by another; or (d) touching of the sex organs or anus, of oneself or of one person by another.
- K. "Licensing authority" means the Finance Director of the City of Mount Vernon or any duly authorized representative.

5.06.030 Adult entertainment dance studio license required.

No person shall operate an adult entertainment dance studio without a valid adult entertainment dance studio license issued by the licensing authority.

5.06.040 Prima facie evidence of adult entertainment dance studio.

It shall be prima facie evidence that a business is an adult entertainment dance studio when one or more adult entertainers displays or exposes any portion of the breast below the top of the areola or any portion the pubic region, anus, buttocks, vulva and/or genitals.

5.06.050 Adult entertainment dance studio license -- Application, issuance.

- A. Application for an adult entertainment dance studio license shall be made to the licensing authority on a form prepared and made available by the licensing authority, which forms may be revised from time to time.
- B. An application for an adult entertainment dance studio license shall be signed by the applicant and shall contain or set forth the following information:
 1. The name, any aliases or previous names, address, telephone number, driver's license number, if any, social security number, if any and principal occupation, and age of the applicant and each applicant control person;
 2. The name, address, and principal occupation of the managing agent or agents of the business;
 3. For the applicant and each applicant control person, list any other licenses currently held for similar adult entertainment or sexually oriented businesses, including motion picture theaters and panorams, as defined in MVMC 17.72.130, whether from the county or another city, county or state, and the names and addresses of each licensed business;
 4. For the applicant and each applicant control person, list prior licenses held for similar adult entertainment or sexually oriented businesses, whether from the county or from another city, county or state, providing the names,

- addresses and dates of operation for such businesses, and whether any business license or adult entertainment license has been revoked or suspended, and the reason therefor;
5. For the applicant and all applicant control persons, list any and all criminal convictions or forfeitures within five years immediately preceding the date of 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 years immediately preceding the date of application;
 7. The business name, business address, and the business telephone number of the establishment or proposed establishment together with a description of the nature of the business and a scale drawing or diagram showing the configuration of the premises for the proposed adult entertainment dance studio, 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. An application for a license for an adult entertainment dance studio shall include building plans which demonstrate conformance with this chapter;
 8. Any applicant or applicant control person whose business is registered with the Washington Secretary of State shall submit a current certificate of good standing or certificate of existence that shows the business is active and up to date with state reporting requirements;
 9. The names, addresses, telephone numbers and principal occupation of every person, partnership, or corporation having any interest in the real or personal property utilized or to be utilized by the business or proposed business;
 10. Authorization for the City, its agents and employees to obtain information to confirm any statements set forth in the application;
 11. Each applicant shall verify, under penalty of perjury, that all of the information contained in the application is true, accurate and complete.
- C. The licensing authority may request other information or clarification when necessary to determine compliance with this chapter.
- D. Each application shall be accompanied by a non-refundable fee as follows:
1. Adult entertainment dance studio: \$350.00 per year
 2. Adult entertainer: \$55.00 per year
 3. Adult entertainment dance studio manager: \$55.00 per year
 4. The fee shall not be prorated.
- E. As soon as practicable following receipt of a completed application for an adult entertainment dance studio license, the licensing authority shall transmit copies of the application to the police chief, fire marshal, and department of community and development services for their investigation and review to determine compliance of the proposed adult entertainment dance studio with the laws and regulations which each department administers. Each department shall, within 25

- days of the date of such application, inform the licensing authority in writing of the results of its investigation and review. No license may be issued unless each department reports that the application and premises comply with the relevant laws.
- F. Within 30 days of receipt of a fully completed application for an adult entertainment dance studio license and payment of the fee, the licensing authority shall issue the license, except that the licensing authority shall deny the application if issuance of a license will violate any provision of Chapter 5.06 MVMC, the zoning ordinance for the city, MVMC Title 17, or any other law or ordinance, or if the licensing authority determines that the applicant has made a false, misleading or fraudulent statement of material fact on the application for a license. A person aggrieved by denial of a license under this subsection may appeal the denial to the City hearing examiner. The appeal shall be filed and processed as set forth in MVMC 19.15.030 and MVMC 19.15.040
 - G. An adult entertainment dance studio license shall expire on December 31 of the year in which it is issued.
 - H. An adult entertainment dance studio license shall not be issued to any person under the age of 18 years.
 - I. An adult entertainment dance studio 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 establishment.
 - J. A license issued to an adult entertainment dance studio is not transferable to any person, entity or to any other business or property.
 - K. It is the responsibility of the licensee issued a license under this section to keep the information on the license current at all times.
 - L. The licensee shall notify the licensing authority of any change in address, business name, or in the officers, directors or partners of such business, within 14 days of any such change and shall supply the same information as required for an initial adult entertainment dance studio license application.

5.06.060 Other licenses/permits not waived.

- (1) The issuance of an adult entertainment dance studio license shall not be construed or act as absolving the licensee of complying with the requirements of any governmental agencies, including, but not limited to, federal, state, city and county laws or ordinances relating to buildings, fire, health, sanitation, zoning, taxation, public safety, and all other requirements and conditions provided by law.
- (2) The filing of an application for a license under this chapter shall not give the applicant the right to engage in the activity covered prior to the issuance of a license.

5.06.070 Adult entertainment dance studio license --Renewal.

An adult entertainment dance studio license may be renewed by following the application procedure set out in MVMC 5.06.050. It shall be the duty of the licensee to make application for renewal prior to the expiration of an outstanding license. An expired license shall not be automatically renewed and will only be renewed upon a renewal

application by the applicant following the procedure in MVMC 5.06.050. A decision of the licensing authority to deny an application for renewal shall be stayed and the prior license shall remain in effect during administrative and judicial review of that decision.

5.06.080 License for managers and adult entertainers required.

No person shall work as a manager or adult entertainer without a valid manager's or adult entertainer's license issued by the licensing authority.

5.06.090 Manager's and adult entertainer's license -- Application, issuance.

- A. Application for a manager's or adult entertainer's license shall be made to the licensing authority on a form prescribed by the licensing authority.
- B. An application for a manager's or adult entertainer's license shall contain or set forth the following information:
 - 1. The applicant's name, home addresses (current and former), home telephone number, date of birth, social security number, alias (past or present), and stage name;
 - 2. The business name and address where the applicant intends to dance or work;
 - 3. Authorization for the City, its agents and employees to investigate and confirm any statement set forth in this application.
- C. With the application the applicant shall present documentation that he or she has attained the age of 18 years. Any of the following shall be accepted as documentation of age:
 - 1. A motor vehicle operator's license issued by any state bearing the applicant's date of birth and photograph;
 - 2. An identification card issued by any governmental agency bearing the applicant's date of birth and photograph;
 - 3. An official passport issued by the United States of America;
 - 4. An immigration card issued by the United States of America.
- D. Each applicant shall be photographed.
- E. Each application shall be accompanied by a non-refundable fee as provided in MVMC 5.06.050 D. The fee shall not be prorated.
- F. Upon receipt of a completed application for a manager's or adult entertainer's license and proof of compliance with MVMC 5.06.090 D required by this chapter, the licensing authority shall issue the license. As soon as possible, following the issuance of a manager's or adult entertainer's license, the licensing authority shall transmit copies of the application and license to the Mount Vernon Police Department.
- G. A manager's or adult entertainer's license shall expire on December 31 of the year in which it is issued.
- H. A manager's or adult entertainer's license shall entitle a manager or adult entertainer to perform or work only at the location indicated on the manager's or adult entertainer's license. If a manager or adult entertainer changes his or her location where employed or performing during the license term, the license certificate must be returned to the licensing authority for reissuance, upon

payment of the fee set out in MVMC 5.06.050 D, indicating the new location of employment.

- I. A manager's or adult entertainer's license shall not be issued to any person under the age of 18.
- J. It is the responsibility of all managers and adult entertainers issued a license under this section to keep the information on their license current and accurate at all times.
- K. Each applicant shall verify, under penalty of perjury, that all of the information contained in the application is true, accurate and complete.

5.06.100 Manager's or adult entertainer's license -- Renewal.

A manager's or adult entertainer's license may be renewed by following the application procedure set out in MVMC 5.06.090. It shall be the duty of the licensee to make application for renewal prior to the expiration of an outstanding license.

5.06.110 Adult entertainment dance studio regulations.

- A. No person shall advertise, or cause to be advertised, an adult entertainment dance studio without a valid adult entertainment dance studio license issued pursuant to this chapter.
- B. No later than March 1 of each year an adult entertainment dance studio licensee shall file a verified report with the licensing authority showing the licensee's gross receipts for the preceding calendar year.
- C. An adult entertainment dance studio licensee shall maintain and retain for a period of two years the names, addresses, and ages of all adult entertainers and managers.
- D. No adult entertainment dance studio licensee shall employ as a manager or adult entertainer a person under the age of 18 years or a person not licensed pursuant to this chapter.
- E. No person under the age of 18 years shall be admitted to an adult entertainment dance studio.
- F. An adult entertainment dance studio shall be closed between 2:00 a.m. and 8:00 a.m.
- G. No adult entertainment dance studio licensee shall serve, sell, distribute, or suffer the consumption or possession of any intoxicating liquor or controlled substance upon the premises of the licensee.
- H. An adult entertainment dance studio license issued pursuant to this chapter shall be conspicuously displayed at the place of businesses during normal business hours.
- I. Manager and adult entertainer licenses issued pursuant to this chapter shall be maintained on the premises of the business during normal business hours.
- J. No adult entertainment shall be visible outside of the adult entertainment dance studio, nor any photograph, drawing, sketch or other pictorial or graphic representation which includes lewd matter as defined in RCW [7.48A](#) or display of sexually explicit material in violation of RCW [9.68.130](#).

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

5.06.112 Manager on premises.

- A. A licensed manager shall be on duty at an adult entertainment dance studio premises at all times that adult entertainment is being provided. The name of the manager on duty shall be prominently displayed during business hours.
- B. The licensed manager on duty shall not be an adult entertainer. It shall be the responsibility of the manager to verify that any employee or adult entertainer working or performing within the establishment possesses a current and valid employee's or adult entertainer's license as required by this chapter.
- C. The license manager shall not permit any violations of this chapter to occur.

5.06.115 Additional requirements for adult entertainment dance studios

Every adult entertainment dance studio shall be physically arranged in such a manner that:

- A. **Performance Area.** The performance area of the adult entertainment dance studio where adult entertainment is performed shall be a stage or platform at least 18 inches in elevation above the level of the patron seating areas, and shall be separated by a distance of at least 6 feet from all areas of the premises to which members of the public have access. A continuous railing three to five feet in height above the floor and located at least six feet from all points of the performance area shall separate the performance area and the patron seating areas. The stage and the entire portion of cubicles, rooms or stalls wherein adult entertainment is provided must be visible from the common areas of the premises and at least one manager's station. Visibility shall not be blocked or obstructed in any way by doors, curtains, drapes or any other obstruction whatsoever.
- B. **Illumination.** Sufficient lighting shall be provided in and 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 all parts of such premises shall be illuminated so that patrons or others on any part of the premises shall be able to read the Washington State Liquor Control Board card or other written instrument, printed in eight-point type.
- C. **Signs.** A sign at least two feet by two feet, with letters at least one inch high shall be conspicuously displayed in the public area(s) of the adult entertainment dance studio, stating each of the following:
1. A list of any and all adult entertainment provided on the premises with the specific fee or charge in dollar amounts for each adult entertainment listed; and

2. "THIS ADULT ENTERTAINMENT DANCE STUDIO IS REGULATED BY SNOHOMISH COUNTY. DANCERS ARE:
- A. NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT
 - B. NOT PERMITTED TO APPEAR SEMI-NUDE OR NUDE, EXCEPT ON STAGE
 - C. NOT PERMITTED TO ACCEPT TIPS OR GRATUITIES IN ADVANCE OF THEIR PERFORMANCE
 - D. NOT PERMITTED TO ACCEPT TIPS OR GRATUITIES DIRECTLY FROM PATRONS WHILE PERFORMING UPON ANY STAGE AREA."

5.06.117 Standards of conduct.

The following standards of conduct must be adhered to by employees of any adult entertainment dance studio while in any area in which members of the public are allowed to be present:

- A. No employee or adult 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 except upon a stage at least 18 inches above the immediate floor level and removed at least 6 feet from the nearest member of the public.
- B. No employee or adult entertainer mingling with members of the public shall be unclothed or in less than opaque and complete attire, costume or clothing as described in subdivision (1) of this section, nor shall any male employee or adult entertainer appear at any time with his genitals in a discernibly turgid state, even if completely and opaquely covered.
- C. No employee or adult entertainer mingling with members of the public shall wear or use any device or covering exposed to view which simulates the breast of a female below the top of the areola, vulva, genitals, anus, buttocks, or any portion of the pubic region or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- D. No employee or adult entertainer shall caress, fondle or erotically touch any member of the public.
- E. No employee or adult entertainer shall encourage or permit any member of the public to caress, fondle or erotically touch any employee or adult entertainer.
- F. No employee or adult entertainer shall sit on the lap of a member of the public or separate the legs of a member of the public.
- G. No employee or adult entertainer shall perform simulated non-obscene acts of sexual conduct except upon a stage at least 18 inches above the immediate floor level and removed at least 6 feet from the nearest member of the public.
- H. No employee or adult entertainer mingling with members of the public shall conduct any dance, performance or exhibition in or about the non-stage areas of the adult entertainment dance studio unless that dance, performance or exhibition is performed at a torso-to-torso distance of no less than 4 feet from the member or members of the public for whom the dance, performance or exhibition is performed.

- I. No tip or gratuity offered to or accepted by an adult entertainer may be offered or accepted prior to any performance, dance or exhibition provided by the adult entertainer. No adult entertainer performing upon any stage area shall be permitted to accept any form of gratuity offered directly to the adult entertainer by any member of the public. Any gratuity offered to any adult entertainer performing upon the stage area must be placed into a receptacle provided for receipt of gratuities by the adult entertainment dance studio or provided through a manager on duty on the premises. Any gratuity or tip offered to any adult entertainer or employee conducting any performance, dance or exhibition in or about the non-stage area of the adult entertainment dance studio shall be placed into the hand of the adult entertainer or employee or into a receptacle provided by the adult entertainer or employee, and not upon the person or into the clothing of the adult entertainer or employee.
- J. No employee or adult entertainer shall perform actual acts of sexual conduct as defined in this chapter, or any act which constitutes a violation of RCW [7.48A](#), the Washington Moral Nuisances Statute.

5.06.120 Inspections.

All books and records required to be kept pursuant to this chapter or Washington State law shall be open to inspection by the licensing authority, city police, or their agents during the hours when the adult entertainment dance studio is open for business. The purpose of such inspection shall be to determine if the books and records meet the requirements of this chapter.

5.06.125 Activities not prohibited -- Liquor licenses.

- A. This chapter shall not be construed to prohibit:
 - 1. Plays, operas, musicals or other dramatic works which are not obscene as defined in Section 5.06.125 B below;
 - 2. Classes, seminars and lectures held for serious scientific or educational purposes;
 - or
 - 3. Exhibitions or dances which are not obscene as defined in section 5.06.125 B below.

These exemptions shall not apply to the sexual conduct defined in MVMC 5.06.020, or the sexual conduct described in RCW 7.48.010 (2)(b)(ii) and (iii).

- B. Whether or not an activity is obscene shall be judged by consideration of the following factors:
 - 1. Whether the average person, applying contemporary community standards, would find that the activity taken as a whole appeals to a prurient interest in sex; and
 - 2. Whether the activity depicts or describes in a patently offensive way, as measured against contemporary community standards, sexual conduct as described in RCW [7.48A.010\(2\)\(b\)](#); and

3. Whether the activity taken as a whole, and in the context in which it is used, lacks serious literary, artistic, political or scientific value.

5.06.130 Enforcement.

The licensing authority, community and economic development director and/or police chief or designated representatives are authorized and directed to enforce the terms and provisions of this chapter.

5.06.135 Suspension and revocation.

- A. The licensing authority may, at any time upon the recommendation of the Police Chief or as provided below suspend, revoke or impose conditions on any license issued under this chapter:
 1. Where such license was procured by fraud or false representation of fact; or
 2. For the violation of, or failure to comply with the provisions of this chapter or any other similar local or state law by the licensee or by any of its servants, agents or employees when the licensee knew or should have known of the violations committed by its servants, agents, or employees; or
 3. For the conviction of the licensee of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances as defined in RCW Article 69.50 committed on the premises, or the conviction of any of the licensee's servants, agents or employees of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances as defined in RCW Article 69.50 committed in the licensed premises when the licensee knew or should have known of the violations committed by its servants, agents or employees.
- B. A license procured by fraud or misrepresentation shall be revoked. Where other violations of this chapter or other applicable ordinances, statutes or regulations are found, the licensing authority shall suspend a license issued under this chapter for 30 days for the first violation, 90 days for the second violation and 120 days for the third and subsequent violations within a 24 month period, not including periods of suspension.
- C. No license suspended or revoked under the provisions of this chapter may be renewed during any period of suspension.
- D. The licensing authority may revoke a license upon the grounds for a suspension when a license has been suspended three times within a 24 month period, not including periods of suspension.
- E. The procedure for suspension, revocation or conditioning is initiated by the service of a notice and order issued by the licensing authority, pursuant to Chapter 19.15 MVMC.

5.06.140 Disclaimer

No license/permit issued by the City of Mount Vernon shall be construed as an endorsement by the City of Mount Vernon, including any endorsement of any licensee or

activity incidental to any licensed activity. The City of Mount Vernon assumes no liability or responsibility of any sort as a result of the issuance of any license/ permit.

5.06.150 Civil penalty.

In addition to or as an alternative to any other penalty provided herein or by law, any person who engages in any activity for which a license or permit is required pursuant to the provisions of this Chapter while his or her license is suspended or revoked, or in violation of any condition of a license, or who fails to obtain a license or permit prior to engaging in the activity for which a license or permit is required, or who otherwise violates any license or permit law shall pay as set forth in Chapter 19.35.010 MVMC. The civil penalty may be assessed and collected by use of all appropriate legal remedies, including the procedures set out in Title 19 of the MVMC.

5.06.160 Criminal penalty.

Except as otherwise specifically provided in this Chapter, any person violating or failing to comply with any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in any sum not exceeding \$1,000 or by imprisonment in the county jail for a period not exceeding 90 days, or both. Each day that any person conducts any business, calling, profession, trade, occupation or activity in violation of any provision of this chapter shall constitute a separate offense and be punished as such.

5.06.170 Public nuisance.

Any activity, act, or conduct undertaken without a license or permit required by this Chapter constitutes a public nuisance and such activity, act, or conduct may be abated by the licensing authority or police chief by securing an appropriate order from the court.

5.06.180 Nonexclusive remedies.

The remedies for violation of this Chapter set out in this Chapter are not exclusive.

5.06.190 Severability.

If any portion of this chapter, or its application to any person or circumstance, is held invalid, the remainder or application to other persons or circumstances shall not be affected.

SECTION 3. Chapter 5.13, CABARETS, of the Mount Vernon Municipal Code is hereby repealed and reenacted, which Chapter shall read as follows:

Chapter 5.13 ADULT BUSINESSES AND EMPLOYEES

Sections:

- 5.13.005 General provisions.
- 5.13.010 Definitions.
- 5.13.015 Adult businesses-License required.
- 5.13.020 License fees and term.
- 5.13.025 Investigation required.
- 5.13.030 Fingerprinting required.
- 5.13.035 Photograph required.
- 5.13.040 Underage employees.
- 5.13.045 Unlawful to employ unlicensed person.
- 5.13.050 Manager license required.
- 5.13.055 Employee license required.
- 5.13.060 Exclusions.

- 5.13.070 Standards of conduct.
- 5.13.075 Notice to public.
- 5.13.080 Prima facie evidence of adult sales practice.
- 5.13.085 Signs.
- 5.13.090 Enforcement.
- 5.13.095 Nuisance declared.
- 5.13.100 Additional enforcement.
- 5.13.105 Relation to other laws
- 5.12.110 Severability

5.13.005 General provisions.

Unless specified otherwise in this chapter, the general provisions contained in chapter 5.04 MVMC shall apply to licenses required by this chapter.

5.13.010 Definitions.

The words and phrases in this chapter, unless the context otherwise indicates, shall have the following meanings:

- A. "Adult entertainment" means:
 1. Any exhibition, performance or medium which is distinguished or characterized by displays of less than completely and opaquely covered human genitals, pubic hair, pubic area, perineum, anus, buttocks, or female breast below the top of the areola; or
 2. Any exhibition, performance or dance conducted in a premises where such exhibition, performance or dance is performed within the view of one or more members of the public and is intended or is likely to sexually stimulate any member of the public.
- B. "Adult entertainment book store" means any business from which minors are excluded and in which the purchase, rental, viewing or use of books, magazines, newspapers, movie films, devices, slides, or other photographic or written

- reproductions distinguished or characterized by their emphasis on matter depicting, describing, or relating to adult entertainment or adult entertainment material make up 25% or more of the stock in trade.
- C. "Adult entertainment business" means any establishment or premises other than a business subject to chapter 5.06 MVMC or 5.56 MVMC, which:
1. Engages in adult sales practice; or
 2. Has at least 25% of its trade in the display, barter, rental, or sale of a medium which meets the criteria of adult entertainment as defined by this chapter including but not limited to: adult entertainment bookstores, adult entertainment movie theaters, adult tanning salons, escort businesses and nude house cleaning businesses; or
- D. "Adult hotel" means a hotel, motel, or similar commercial establishment which offers a sleeping room for rent for a period of time less than 10 hours or allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.
- E. "Adult entertainment movie theater" means any establishment, from which minors are excluded and where the principal use of the premises consists of the showing of motion pictures, slides, or photographic or other visual reproductions, where the subject matter meets the criteria of adult entertainment as defined in this chapter and where fees of any kind are charged. This definition shall include establishments wherein the above mentioned medium is the major attraction on a regular basis and establishments wherein the above mentioned medium is shown at least 25% of the showing time of the theater.
- F. "Adult sales practice" means any activity which is distinguished or characterized by a person being in a state of partial nudity while conducting or otherwise engaged in retail sales of goods or services under circumstances where such conduct is likely to be viewed by a member of the public.
- G. "Adult tanning salon" means any establishment which offers tanning services to a member of the public and in which adult entertainment takes place.
- H. "Customer" means a person patronizing a business for which an adult business license is required by this chapter.
- I. "Employee" means any and all persons who work in or at or render any services directly related to the operation of an adult entertainment business regardless of whether that person meets the criteria of a statutory employee, common law employee or independent contractor.
- J. "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- K. "Escort business" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts.
- L. "Manager" means any person who manages, directs, administers or is in charge of, the affairs and/or conduct of any portion of any activity involving adult entertainment occurring at any place offering adult entertainment.
- M. "Member of the public" means any person other than a manager or employee as defined in this section.

- N. "Nude or state of nudity" means a state of dress or undress such that any of the body parts described in the City's lewd conduct ordinance, MVMC 9.19.040, is exposed to view or covered with anything other than a full and opaque covering within the meaning of that ordinance.
- O. "Nude house cleaning business" means a person or business which offers house cleaning services in which the house cleaner is in a state of nudity.
- P. "State of partial nudity" means a state of dress or undress not constituting a state of nudity in which any of the following body parts or portions thereof is exposed to view or covered with anything other than a full and opaque covering:
1. Any part of the buttocks or anal cleft; or
 2. Any part of the female breast located below the top of the areola.
 3. Items commonly known as pasties, G-strings, T-backs, dental floss, and thongs; body paint, body dye, tattoos, latex, tape, or any similar substance applied to the skin surface; any substance that can be washed off the skin; or any substance designed to simulate or which by its nature simulates the appearance of the anatomical area beneath it, is not full and opaque covering within the meaning of this subsection.
- Q. "Stock in trade" means the greater of: (a) the retail dollar value of all prerecorded video tapes, discs, books, magazines or similar material readily available for purchase, rental, viewing or use by patrons of the establishment, including paper or electronic form, excluding material located in any storeroom or other portion of the premises not regularly open to patrons; or (b) the total number of titles of all prerecorded video tapes, discs, books, magazines, or similar material readily available for purchase, rental, viewing or use by patrons of the establishment, including paper or electronic form, excluding material located in any storeroom or other portion of the premises not regularly open to patrons.

5.13.015 Adult businesses-License required.

No person shall operate within the City of Mount Vernon an adult entertainment business, an adult hotel, an adult tanning salon, an escort business, or a nude house cleaning business without a valid adult business license issued by the licensing authority. No escort business or nude house cleaning business shall provide services within the City of Mount Vernon without a valid license issued by the licensing authority.

5.13.020 License fees and term.

The fees for the licenses required by this chapter are as follows:

- A. Adult business location: \$265.00;
- B. Adult business employees: \$115.00;
- C. Adult business manager: \$115.00.

The terms for these licenses is one year from date of issuance.

5.13.025 Investigation required.

Applicants seeking a license under this chapter shall have applicant's application forwarded to the Mount Vernon Police Department with any supporting documents to be investigated as follows:

- A. Whether any outstanding criminal violations/charges exist.
- B. Whether any legitimate complaints exist regarding the applicant's past business practices that would have any bearing or effect on the issuance of the license/permit under consideration.
- C. Whether the person is prohibited by law from engaging in this type of activity.
- D. Whether the application should otherwise be disapproved based upon public safety considerations.
- E. Within 30 days following the receipt of the application from the licensing authority, the police chief or his or her designee make a written recommendation on the issuance of the license setting forth the results in his investigation and his recommendation as to the disposition of the application. The police chief or his or her designee may request an extension to complete his investigation of no more than 30 days, which request shall be granted upon a showing of reasonable cause.

5.13.035 Photograph required.

Applicants seeking an employee or manager license as required by this chapter shall submit photographs when applications are submitted. Each applicant, or party signing the application, shall submit four 2" x 2" photographs taken within the last six months of the date of application showing three full face and one full length front-facing shot. These photographs shall be provided at the expense of the applicant. The applicant shall certify under penalty of perjury that the photograph is a true, accurate and unaltered depiction of the applicant. The license, when issued, shall have affixed to it a photograph of the applicant, or the party signing the application, shall be posted at all times in a conspicuous place in the establishment where such license is enjoyed, and shall not be tampered with in any manner. On renewal of a license applicants must resubmit photographs as described in this section.

5.13.040 Underage employees.

It shall be unlawful for any owner, proprietor, manager, or person in charge of any facility regulated by this chapter, to have an employee in such establishment, under the age of 18 years.

5.13.045 Unlawful to employ unlicensed person.

It shall be unlawful for any owner, proprietor, manager, or person in charge of any escort business, nude house cleaning business, adult tanning salon, or business using an adult sales practice, as regulated by this chapter, to employ in such establishment, any person who does not have a valid employee license as required by MVMC 5.13.055.

5.13.050 Manager license required.

No person shall work as a manager in nude house cleaning business, escort business, adult tanning salon, or business using an adult sales practice, as regulated by this chapter, without a valid license issued by the licensing authority.

5.13.055 Employee license required.

- A. It shall be unlawful for any person to work in the following adult entertainment businesses, in the capacities outlined below, without a license as provided for in this chapter:
 - 1. "nude house cleaning"--any person actually performing or assisting in the performance of nude house cleaning, as defined in this chapter;
 - 2. "escort business"--any person acting as an escort as defined by this chapter;
 - 3. "adult tanning salons"--any person performing any services in a closed room while the patron is present; or
 - 4. business using an "adult sales practice"--any person who is in a state of partial nudity while conducting or otherwise engaged in retail sales of goods or services.
- B. All licenses required shall be invalid as to any adult entertainment business during any period in which the employer is not engaged in business whether by reason of choice or failure of the employer to operate a business or by reason of lapse, suspension or revocation of employer's license.
- C. An employee license shall entitle the employee to work only at the adult entertainment business indicated on the employee's license. If an employee changes his or her employment during the license term, the license certificate must be returned to the licensing authority or reissuance, upon payment of the fee set out in MVMC 5.13.020, indicating the new place of employment.

5.13.060 Exclusions.

- A. This chapter shall not be construed to prohibit:
 - 1. Plays, operas, musicals, dramatic works, or other exhibitions or performances that constitute protected speech under the federal or state constitution and which are not obscene;
 - 2. Classes, seminars and lectures held for serious scientific or educational purposes;
 - 3. Conduct of licensed adult entertainers within adult entertainment dance studios operating pursuant to chapter 5.06 MVMC; or
 - 4. The act of breastfeeding or expressing breast milk.
- B. For this chapter, any exhibition, performance, dance or other medium is obscene:
 - 1. Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and
 - 2. Which explicitly depicts or describes patently offensive representations or descriptions of
 - a. Ultimate sexual acts, normal or perverted, actual or simulated; or

- b. Masturbation, fellatio, cunnilingus, bestiality, excretory functions or lewd exhibition of the genitals or genital area; or
- c. Violent or destructive sexual acts including but not limited to human or animal mutilation, dismemberment, rape or torture; and
- 3. Which, when considered as a whole, and in the context in which it is used, lacks serious literary, artistic, political, or scientific value.

5.13.070 Standards of conduct.

The following standards of conduct shall be adhered to by any adult business for which a license is required by this chapter:

- A. No person under the age of 18 years shall enter or remain in any establishment or premises in which an employee is in a state of nudity or partial nudity.
- B. No employee shall be in a state of partial nudity under circumstances where such conduct is likely to be observed by a member of the public other than a customer.
- C. No employee shall be in a state of nudity under circumstances where such conduct is likely to be observed by a member of the public, except that an employee who is employed as an escort or nude house cleaner may be in a state of nudity when observed by a customer.
- D. No employee who is employed as an escort or nude house cleaner shall be in a state of nudity when observed by a customer unless the employee is removed at least 6 feet from the nearest customer.
- E. No male employee shall be visible to a member of the public with his genitals in a discernibly turgid state, even if completely and opaquely covered.
- F. No employee shall caress, fondle or erotically touch any employee or member of the public.
- G. No employee shall encourage or permit any member of the public to caress, fondle or erotically touch any employee or member of the public.

5.13.075 Notice to public.

Any business for which an adult business license is required by this chapter shall by signage and other reasonable means put potential customers on notice that the business is an adult business from which persons under the age of 18 years are excluded. Such notice for a business establishment or premises shall include at least one sign conspicuously displayed at each entrance which shall have horizontal and vertical dimensions of least two feet by two feet and state "ADULTS ONLY" in bold letters at least six inches in height.

5.13.080 Prima facie evidence of adult sales practice.

It shall be prima facie evidence of an adult sales practice when a person other than an adult entertainer as defined in MVMC 5.06.020 engages in the retail sale of goods or services while in a state of partial nudity under circumstances where such conduct is likely to be viewed by a member of the public.

5.13.085 Signs.

In addition to any restriction on signs imposed, it shall be unlawful for an adult business for which a license is required by this chapter to display a sign as defined in MVMC 17.87.020 which is obscene, deceptive, misleading, or false, or which proposes a transaction which is illegal.

5.13.090 Enforcement.

The licensing authority, community and economic development director and/or police chief or designated representatives are authorized and directed to enforce the terms and provisions of this chapter.

5.13.095 Nuisance declared.

- A. Any adult entertainment business operated, conducted or maintained in violation of this chapter shall be, and the same is declared to be, unlawful and a public nuisance. The county may, in addition to or in lieu of any other remedies set forth in this chapter, commence an action to enjoin, remove or abate such nuisance in the manner provided by law, and may take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person from operating, conducting or maintaining an adult business contrary to the provisions of this chapter.
- B. Any adult entertainment business operated, conducted or maintained contrary to the provisions of chapter 7.48A RCW shall be, and the same is declared to be, unlawful and a public and moral nuisance and the prosecuting attorney may, in addition to or in lieu of any other remedies set forth in this chapter, commence an action or actions to enjoin, remove or abate such public and moral nuisance, or impose a civil penalty, in the manner provided by chapter 7.48A RCW.

5.13.100 Additional enforcement.

The remedies provided for in this chapter are not exclusive, and the City may seek any other legal or equitable relief, including but not limited to enjoining any acts or practices which constitute or will constitute a violation of this chapter.

5.13.105 Relation to other laws.

- A. This chapter shall not limit application of Chapter 9.19 MVMC and any other laws prohibiting public nudity except as expressly provided therein. Pursuant to MVMC 9.19.040, any public exposure of a person in a state of nudity, other than employees working as escorts or nude house cleaners in adult businesses operating pursuant to this chapter, must be conducted within an adult entertainment dance studio operating pursuant to chapter 5.06 MVMC.

- B. This chapter shall not be construed to limit application of other federal, state, and local laws that may apply to adult businesses or employees subject to this chapter, including but not limited to laws relating to public health and workplace safety.

5.13.110 Severability.

If any section, sentence, clause or phrase of this chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this chapter.

SECTION 4. That a new section 17.72.130 of the Mount Vernon Municipal Code is hereby created which section shall read as follows:

17.72.130 Adult entertainment uses.

Adult entertainment uses must meet the following requirements:

- A. Adult entertainment businesses or uses are prohibited within the area circumscribed by a circle which has the radius shown below from any public or private school, preschool, educational institution, church or other religious facility, public or private park, libraries, child care centers, game arcades, youth oriented facilities, and shall be permitted in only the following: Those areas of the C-L Commercial/Limited Industrial District as further set forth in Exhibit A attached hereto:
1. Adult entertainment book stores-- 650'.
 2. Adult entertainment dance studios-- 650'.
 3. Adult entertainment movie theaters-- 650'.
 4. Adult hotels-- 650'.
 5. Adult tanning salons-- 650'.
 6. Escort businesses-- 0'.
 7. Nude house cleaning businesses-- 0'.
 8. Panoram premises-- 650'
 9. All other adult entertainment uses-- 650';
- B. The distances specified in this section shall be measured horizontally by following a straight line without regard to intervening buildings, from the nearest point of the property parcel upon which the proposed use is to be located to the nearest point of the parcel of property of the land use from which the proposed use is to be separated;
- C. Violation of the use provisions of this section is:
1. Declared to be a public nuisance per se, which may be abated by the county by way of civil abatement procedures only, and not by criminal prosecution; or
 2. Subject to enforcement in accordance with the provisions of Title 19 MVMC;

- D. Nothing in this section is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building, or use which violates any other City of Mount Vernon or Skagit County ordinance or statute of the State of Washington or any Federal law regarding public nuisances, sexual conduct, lewdness, or obscene or harmful matter or the exhibition or public display thereof; and
- E. The following definitions apply to adult entertainment uses:
1. "Adult entertainment" means any exhibition, performance or medium which is distinguished or characterized by:
 - a. acts of masturbation, sexual intercourse, or sodomy;
 - b. fondling or other touching of the human genitals, pubic region, buttocks or female breast;
 - c. human genitals in a state of sexual stimulation or arousal;
 - d. displays of less than completely and opaquely covered human genitals, pubic region, anus, buttocks, or female breast below the top of the areola;
 - e. human male genitals in a discernibly turgid state even if completely covered;
 - f. any exhibition, performance, or dance conducted in a premises where such exhibition, performance, or dance is performed within the view of one or more members of the public and is intended or is likely to sexually stimulate any member of the public; or
 - g. adult entertainment shall not include the following:
 - i. plays, operas, musicals, or other dramatic works which are not obscene;
 - ii. classes, seminars, and lectures which are held for serious scientific or educational purposes;
 - iii. exhibitions or dances which are not obscene;
 - h. For this chapter, any exhibition, performance, dance, or other medium is obscene:
 - i. which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and
 - ii. which explicitly depicts or describes patently offensive representations or descriptions, applying contemporary community standards of sexual conduct as described in RCW 7.48A.010(2)(b); and
 - iii. which, when considered as a whole, and in the context in which it is used, lacks serious literary, artistic, political, or scientific value.
 2. "Adult entertainer" means any person who provides live adult entertainment within an adult entertainment dance studio as defined in this section whether or not a fee is charged or accepted for entertainment.
 3. "Adult entertainment book store" means any business from which minors are excluded and in which the purchase, rental, viewing or use of books, magazines, newspapers, movie films, devices, slides, or other photographic or written reproductions distinguished or characterized by their emphasis on matter depicting, describing, or relating to adult entertainment or adult entertainment materials make up 25 percent or more of the stock in trade.
 4. "Adult entertainment business/use" means any establishment or premises engaged in the adult sales practices as defined in MVMC 5.13.010 F, or which has a

- substantial or significant portion of its trade, the display, barter, rental or sale of any adult entertainment medium, or which meets the definitions contained in this chapter of adult entertainment book stores, adult hotels, adult entertainment movie theaters, adult tanning salons, escort businesses, nude house cleaning businesses, adult entertainment dance studios, panoram premises.
5. Adult entertainment dance studio" means any place where an exhibition or dance of any type is conducted where such exhibition involves adult entertainment as defined by this section.
 6. Adult entertainment movie theater" means any establishment, from which minors are excluded and where the principal use of the premises consists of the showing of motion pictures, slides, or photographic or other visual reproductions, where the subject matter meets the criteria of adult entertainment as defined in this chapter and where fees of any kind are charged. This definition shall include establishments where the above mentioned medium is the major attraction on a regular basis and establishments wherein the above mentioned medium is shown at least 25 percent of the showing time of the theater
 7. "Adult hotel" means a hotel, motel, or similar commercial establishment which offers a sleeping room for rent for a period of time less than 10 hours or allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.
 8. "Adult tanning salon" means any establishment which offers tanning services to a member of the public and in which adult entertainment takes place.
 9. "Child Care Centers" means facilities that regularly provide child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.
 10. "Church" means buildings or structures, or groups of buildings or structures, which by design, construction or use are primarily intended for the conducting of organized religious services and accessory uses associated therewith.
 11. "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
 12. "Escort business" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for fee, tip, or other consideration.
 13. "Game Arcades" means entertainment venues featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted
 14. "Member of the public" means any customer, patron or person, other than an employee, who is invited or admitted to an adult entertainment premises.
 15. "Nude or state of nudity" means displays of less than completely and opaquely covered human genitals, pubic area, anus, buttocks, or female breast below the top of the areola.
 16. "Nude house cleaning business" means a business which offers house cleaning services in which the house cleaner is in a state of nudity.

17. "Panoram premises" or "adult arcade" means any premises on which any panoram device is located and to which members of the public are admitted. The term "panoram premises" as used in this chapter does not include movie or motion picture theater auditoriums capable of seating more than five people.
18. "Panoram," "preview," "picture arcade," or "peep show" means any device which, for payment of a fee, membership fee or other charge, is used to exhibit or display a picture, view, or other graphic display of adult entertainment. The terms "panoram" and "panoram device" as used in this chapter do not include games which employ pictures, views, or video displays or gambling devices regulated by the state or by chapter 5.14 MVMC.
19. "Parks" means land owned or maintained by a public or private entity opened to the public designated for and used by the public for active and passive recreational activities.
20. "Schools" means any building or part thereof designed, constructed, or used for formal educational uses recognized by the Washington state superintendent of public instruction. This definition includes both public and private schools
21. "Stock in trade" means the greater of:
 - a. the retail dollar value of all prerecorded video tapes, discs, books, magazines, or similar material readily available for purchase, rental, viewing, or use by patrons of the establishment, excluding material located in any storeroom or other portion of the premises not regularly open to patrons; or
 - b. the total number of titles of all prerecorded video tapes, discs, books, magazines, or similar material readily available for purchase, rental, viewing, or use by patrons of the establishment excluding material located in any storeroom or other portion of the premises not regularly open to patrons.
22. "Trails" means linear shaped facilities designed and intended for the public to walk, run, or otherwise travel across.
23. "Youth oriented facility" means facilities owned or operated by non-profit organizations for the purpose of providing recreational or educational opportunities for youth including, but not limited to, Boys and Girls Clubs, YMCAs, YWCAs, Little League, and other youth sports associations.

F. If any sentence, clause or phrase of this section should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this chapter.

SECTION 5. **Repealer.** The following definitions set forth in MVMC 17.06.010 A are hereby repealed:

“Adult bookstore”
 “Adult cabaret”
 “Adult drive-in theater”
 “Adult entertainment”
 Adult Entertainment Establishment.
 “Adult motion picture theater”

“Adult retail store”
 “Adult video store”

SECTION 6. **Repealer.** The following are hereby repealed.

- A. Ordinance 3429 as codified in Section MVMC 17.45.030 A 10.
- B. Ordinance 3429 as codified in Section MVMC 17.48.020 A 11.
- C. Ordinance 3429 as codified in Section MVMC 17.51.040 B

Repeal is limited to only those sections described above. All portions of Ordinance 3429 not identified above shall remain in force and effect.

SECTION 6. **Hearing To Be Held.** Pursuant to RCW 36.70A.390 and/or RCW 35A.63.220, the City Council shall hold a public hearing on this interim regulation within 60 days of adoption of this interim regulations ordinance.

SECTION 7. **City to Consider Permanent Regulations Adoption of City Work Plan.** The City Council hereby directs that the City Community and Economic Development Department to study the issue of adult entertainment uses within the City and begin the process of drafting proposed permanent regulations to be considered through the City’s public participation process including allowing for public input and providing for public hearings at both the Planning Commission and City Council. City Council Adopt the following work plan set forth in Exhibit B attached hereto.

SECTION 8. **Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

SECTION 9. **Savings Clause.** All previous ordinances including Ordinance No. 3536 which may be repealed in part or their entirety by this ordinance, shall remain in full force and effect until the effective date of this ordinance.

SECTION 10. **Effective Date and Declaration of Emergency.** The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority plus one of the whole membership of the Council, and that the same is not subject to a referendum. Without an immediate interim regulation on the City's acceptance of business licenses, building applications, permits or other types of land use/development permits/approvals, such applications could become vested under regulations subject to change by the City in this comprehensive review and regulation amendment/adoption process. This Ordinance will not affect any existing rights, or any vested applications previously submitted to the City.

SECTION 11. **Ordinance to be Transmitted to Department.** Pursuant to RCW 36.70A.106, this Interim Ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

PASSED AND ADOPTED by the City Council of the City of Mount Vernon at a regular meeting thereof this 25 th day of October, 2016.

SIGNED AND APPROVED this 26 th day of October, 2016.

City of Mount Vernon



Jill Boudreau, Mayor

ATTEST:



Alicia Huschka, City Finance Director

Approved as to Form:



Kevin Rogerson, City Attorney

Date of Publication: Oct 30, 2016
Effective Date: _____

Exhibit A
Adult Uses / Businesses Overlay Zone

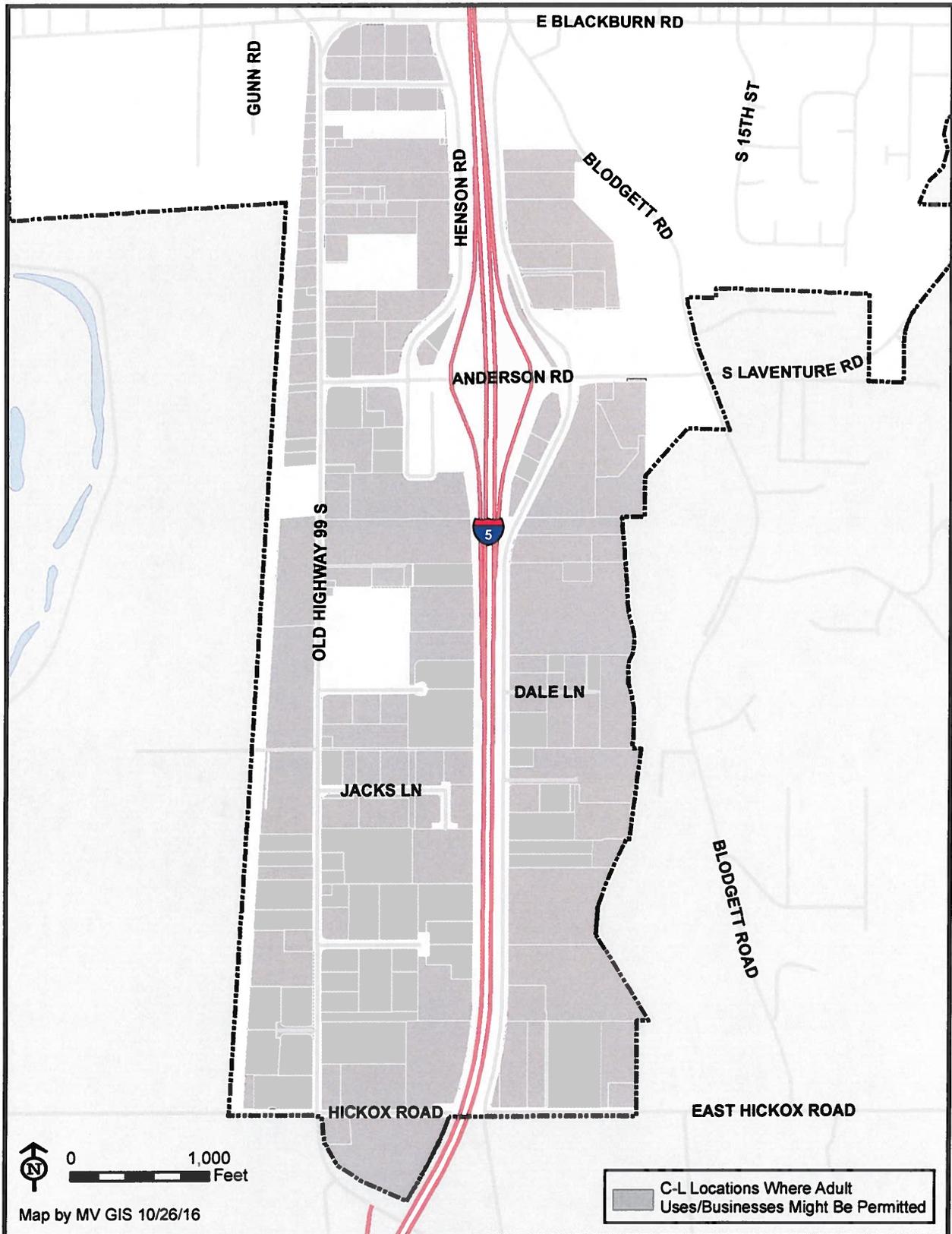


Exhibit B

ADULT ENTERTAINMENT INTERIM REGULATION WORK PLAN

This Adult Entertainment Interim Regulation Work Plan supports the City's Ordinance No. 3698 establishing interim control measures and regulations and licensing and zoning regulations repealing and re-enacting chapter 5.13 of the Mount Vernon Municipal Code, adding a new chapter 5.06 of the Mount Vernon Municipal Code relating to adult business licenses, employees, and adopting regulations amending Mount Vernon Municipal Code Title 17, and declaring an emergency necessitating immediate adoption of interim control regulations to ensure the City Council's intent for appropriate licensing and zoning and other regulations for adult entertainment. This Work Plan is established pursuant to RCW 35A.63.220 and RCW 36.70A.390, as well as interpretative judicial decisions, which authorize adoption of interim zoning controls and regulations with certain limitations, including, if appropriate, a work plan.

Work Plan General Rules and Procedures:

1. All meetings of the Adult Entertainment Zoning and Licensing Committee shall comply with Washington State's Open Public Meetings Act
2. All meetings of the Adult Entertainment Zoning and Licensing Committee shall include a time during the meeting to allow public testimony
3. All meetings of the Adult Entertainment Zoning and Licensing Committee shall substantially comply with Robert Rules of Order
4. Any permanent development regulations and or comprehensive proposed amendments shall comply with the City's public participation program adopted through Resolution 491. In the event of a conflict between Resolution 491 and Ordinance 3698, Ordinance 3698 shall control.
5. For the purposes of Resolution 491, the Council hereby accepts Ordinance 3698 as a proposed amendment for review as a docketed amendment.
6. The Mount Vernon Community and Economic Development Department shall: i) retain all documents reviewed or prepared by the Committee; ii) assign a staff person(s) to provide administrative support; and iii) shall keep minutes.
7. All documents shall be made available to the public at the Community and Economic Development Department during normal business hours.
8. The Adult Entertainment Zoning and Licensing Committee, Planning Commission, or City Council may extend the time schedule set forth below in order if necessary to adequately study materials submitted, obtain new or supplementary information, or provide additional public comment or testimony.

Work Plan Schedule:

November 2016

A minimum of two meetings of the Adult Entertainment Zoning and Licensing Committee.

Tasks shall include:

- Appointing Chairperson and Second (alternative) Chairperson;
- Establish and publish a schedule of meeting days, times, and locations for meetings.
- Review of City's Interim Regulations adopted by Ordinance 3698;
- Review of City's Legislative Record including all Secondary Effects evidence and testimony;
- Acceptance of public testimony; and
- Acceptance and review of additional testimony by City Staff and the public.

December 2016

A minimum of two meetings of the Adult Entertainment Zoning and Licensing Committee

Tasks shall include:

- Review of proposed drafts of the plans or ordinances;
- One joint meeting with the City's Planning Commission;
- Presentation of additional information in response to the Committee's requests, public testimony, or suggestions by the City's Planning Commission; and
- Make a recommendation together with findings to the City's Planning Commission.

January 2017 – February 2017

Public Review, Comment and Hearing of the Planning Commission.

- The Mount Vernon Planning Commission shall review all proposed amendments or adopt new plans and/or implementing regulations, and make recommendation to the City Council together with any SEPA analysis.
- The Planning Commission shall hold at least one public hearing and additional hearings if needed.
- The Planning Commission will make a recommendation, together with findings, to the City Council unless it is unable to reach a decision on a recommendation.

March 2017

- City Council review and consideration of Planning Commission recommendation after public notice and public comment required pursuant to Resolution 491.

The Mount Vernon City Council adopted Ordinance 3698 on October 26, 2016. An Ordinance of the City of Mount Vernon, Washington, enacting interim licensing and zoning regulations repealing and re-enacting Chapter 5.13 of the Mount Vernon Municipal Code, adding a new Chapter 5.06 of the Mount Vernon Municipal Code relating to adult business licenses, employees, and adopting regulations amending Mount Vernon Municipal Code Title 17; and declaring an emergency necessitating immediate adoption of interim control regulations for the zoning, licensing and regulation of adult entertainment. Anyone wishing to view or receive the ordinance in its entirety should contact the Mount Vernon Finance Office, 910 Cleveland, Mount Vernon WA 98273.

Published: October 30, 2016



DATE: October 26, 2016

TO: City Council, Mayor Boudreau, and Planning Commission

FROM: Rebecca Lowell, Senior Planner

SUBJECT: PLANNING STUDY ON 'ADULT USES'

INTRODUCTION:

The City of Mount Vernon is subject to the State Growth Management Act (GMA) (36.70A RCW). Part of the GMA [RCW 36.70A.130(1)(a)] requires that the City's comprehensive plan "be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section". Further, subsection (5)(b) of this same RCW requires that the City "take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter...on or before June 30, 2016, and every eight years thereafter, for... Skagit...county...".

On September 14, 2016 the City adopted Ordinance 3690 approving the above-described required update to the City's Comprehensive Plan.

Part of the City's Comprehensive Plan update process included an evaluation of the City's development regulations to ensure that they are, and will remain, consistent with the adopted Comprehensive Plan. This evaluation lead planning staff to create a list of development regulations that should be evaluated and possibly amended in the future due, primarily, to the time that had lapsed since these original regulations were adopted.

The City's zoning code regulations pertaining to adult uses were first adopted in 1985 and substantively amended just once in 1995. The potential for undesirable impacts, in conjunction with regulations that have not been analyzed in over two decades, as well as changes in the law related to adult entertainment uses, lead to the initiation of the foregoing Planning Study.

Within the context of this study adult uses includes, but are not limited to, bookstores, cabarets, drive-in theaters, entertainment, motion picture theaters, retail stores and drive through businesses, video stores, massage parlors, panorams, previews, picture arcades, and peep shows all of which are characterized by a predominate emphasis on matters related to sexual activities and/or anatomical areas that are further described within the Mount Vernon Municipal Code (MVMC).

This planning study on adult uses is organized into the following sections:

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A. BACKGROUND

1. EXISTING ZONING CODE REGULATIONS FOR ADULT ENTERTAINMENT

The City’s zoning code (Title 17) currently regulates adult entertainment and uses as follows:

CHAPTER OF ZONING CODE:	REGULATION:
17.06.010,A Definitions	<p>Adult bookstore” means a retail establishment in which:</p> <p>A. Twenty-five percent or more of the “stock-in-trade” consists of books, magazines, posters, pictures, periodicals or other printed material distinguished or characterized by a predominant emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” as defined in the Mount Vernon Municipal Code;</p> <p>B. “Stock-in-trade” for the purpose of this section shall mean the greater of:</p> <ol style="list-style-type: none"> 1. The retail dollar value of all books, magazines, posters, pictures, periodicals, or other printed material readily available for purchase, rental, viewing or use by patrons of the establishment excluding material located in any storeroom or other portion of the premises not regularly open to patrons; or 2. The total volume of shelf space and display area; <p>C. Any person is excluded by virtue of age from all or part of the premises generally held open to the public where books, magazines, posters, pictures, periodicals, or other predominant emphasis on matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined in the Mount Vernon Municipal Code, are displayed or sold.</p> <p>“Adult cabaret” means a commercial establishment which presents go-go dancers, strippers, or similar entertainers and which excludes any person by virtue of age from all or any portion of the premises; and which includes the display of “specified anatomical areas” or “specified sexual activities” as currently defined within this chapter, or as these definitions may be amended in the future.</p> <p>“Adult drive-in theater” means a drive-in theater where at least 25 percent of the use is used for presenting motion picture films, video cassettes, cable television, or any other like visual media, distinguished or characterized by a predominant emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined in the Mount Vernon Municipal Code.</p> <p>“Adult entertainment” means any enterprise from which minors are excluded and which sells, rents or displays sexually explicit matter, including, but not limited to, adult bookstores, adult magazine stores, stores selling sexually oriented adult games or devices, adult motion picture theaters, adult mini-motion picture theaters, adult peep shows, establishments where nude or topless dancing or other displays regularly occur or other similar business.</p>

CHAPTER OF ZONING CODE:	REGULATION:
17.06.010,A Definitions	<p>Adult Entertainment Establishment. The following businesses or facilities are defined or referred to as “adult entertainment establishments”:</p> <ul style="list-style-type: none"> A. Adult book stores; B. Adult cabarets; C. Adult drive-in theaters; D. Adult entertainment and adult entertainment premises; E. Adult motion picture theater; F. Adult retail stores; G. Adult video stores; H. Massage parlors and public bath houses; I. Panorams, previews, picture arcades, and peep shows, as defined in Chapter 5.56 MVMC. <p>“Adult motion picture theater” means an enclosed building where at least 25 percent of the use is used for presenting, for commercial purposes, motion picture films, video cassettes, cable television, or any other like visual media, distinguished or characterized by a predominant emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined in the Mount Vernon Municipal Code for observation by patrons therein.</p> <p>“Adult retail store” means a retail establishment in which:</p> <ul style="list-style-type: none"> A. Twenty-five percent or more of the “stock-in-trade” consists of items, products, or equipment distinguished or characterized by a predominant emphasis or simulation of “specified sexual activities” or “specified anatomical areas” as defined in the Mount Vernon Municipal Code; or B. Any person is excluded by virtue of age from all or part of the premises generally held open to the public where products or equipment distinguished or characterized by a predominant emphasis or simulation of “specified sexual activities” or “specified anatomical areas” as defined in the Mount Vernon Municipal Code are displayed or sold. <p>“Adult video store” means a retail establishment in which:</p> <ul style="list-style-type: none"> A. Twenty-five percent or more of the “stock-in-trade” consists of prerecorded video tapes, discs, or similar material distinguished or characterized by a predominant emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined in the Mount Vernon Municipal Code; or B. Any person is excluded by virtue of age from all or part of the premises generally held open to the public where prerecorded video tapes, discs, or similar material distinguished or characterized by a predominant emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined in the Mount Vernon Municipal Code are displayed or sold. <p>“Specified anatomical areas” means both of the following:</p> <ul style="list-style-type: none"> A. Less than completely and opaquely covered: <ul style="list-style-type: none"> 1. Human genitals, pubic region; 2. Buttock; 3. Breast below a point immediately above the top of the areola; B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

CHAPTER OF ZONING CODE:	REGULATION:
17.06.190,S Definitions	<p>“Specified sexual activities” means all of the following:</p> <ul style="list-style-type: none"> A. Human genitals in a state of sexual stimulation or arousal; B. Acts of masturbation, sexual intercourse, or sodomy; C. Fondling or other erotic touching of human genitals, pubic region, buttock, or breast.
17.35.050, Prohibited uses (in HD zone)	B. Adult entertainment.
17.45.030, Permitted uses (in C-1 zone)	<p>Ground-level uses where visible from the street: (in C-1a and C-1b)</p> <p>10. Adult entertainment establishments, as herein defined; provided, that no adult entertainment establishment shall be located nearer than 1,000 feet from any other adult entertainment establishment; and provided further, that no adult entertainment establishment shall be located nearer than 1,000 feet from any public or private school, church, or public park. Distances as provided in this subsection shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the proposed use is to be located to the nearest point of the parcel of property of the land use from which the proposed use is to be separated,</p>
17.48.020, Permitted uses (in C-2 zone)	<p>11. Adult entertainment establishments, as herein defined; provided, that no adult entertainment establishment shall be located nearer than 1,000 feet from any other adult entertainment establishment; and provided further, that no adult entertainment establishment shall be located nearer than 1,000 feet from any public or private school, church, or public park. Distances as provided in this subsection shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the proposed use is to be located to the nearest point of the parcel of property of the land use from which the proposed use is to be separated; and</p>
17.51.040, Conditional Uses (in C-3 zone)	B. Adult entertainment; provided, that no adult entertainment establishment shall be located nearer than 1,000 feet from any other adult entertainment enterprise;
17.54..050, Prohibited uses (C-4 zone)	A. Adult entertainment.

Adult uses were first defined and regulated in the City's zoning code in 1985 with the adoption of Ordinance 2188 with subsequent amendments to these regulations in 1994 and 1995 with Ordinances 2631 and 2688, respectively.

ORDINANCE NUMBER:	DATE ADOPTED:
2188	July 24, 1985
2631	December 14, 1994
2688	July 25, 1995

Staff conducted interviews with City staff that have lived in Mount Vernon since the early 1970's, including a retired Mount Vernon Police officer, to determine the extent of and details surrounding historic adult uses in the City. Staff is not aware of any businesses operating in the City today that include adult uses as currently defined in the Mount Vernon Municipal Code¹.

Following is a brief summary of the two businesses that historically offered adult uses in the City along with the one recent request to operate an adult use in the City. Staff is not aware of any other requests submitted to the City for adult uses since 2004.

- Near the 400 block of Myrtle Street there existed a business named the 'Green Door' owned by Arnold Libby that was in operation in the mid-1980s. Staff is told that the Green Door offered coin operated peep shows featuring topless dancers and pornographic movies. Staff was able to find meeting minutes from the City's Planning Commission from July 2, 1985 that reference both the Green Door and Peking Gardens; these minutes can be found in the accompanying **Appendix C**.
- Near the 600 block of 1st Street there existed a business named 'Peking Gardens' owned by Roy Kraus that was in operation in the late 1970s. Staff is told that this business had topless women dancing on an elevated stage.
- The City received a request in October 2016 from David Davidson who is asking to operate an adult retail store at 920 Lincoln Street #B. A copy of the City's response to Mr. Davidson can be found within **Appendix C** of this study.

¹ Should City Council adopt development regulations recommended by staff it is possible that the one bikini espresso stand located in Mount Vernon (named 'Foxy Lady Latte', located at 2626 Henson Road) will need to make sure that their employees are not engaging in adult sales practices which includes activities distinguished or characterized by a person being in a state of partial nudity while conducting or otherwise engaged in retail sales of goods or services where their conduct is likely to be viewed by the public.

B. EXISTING CONDITIONS:

This section contains information on the following:

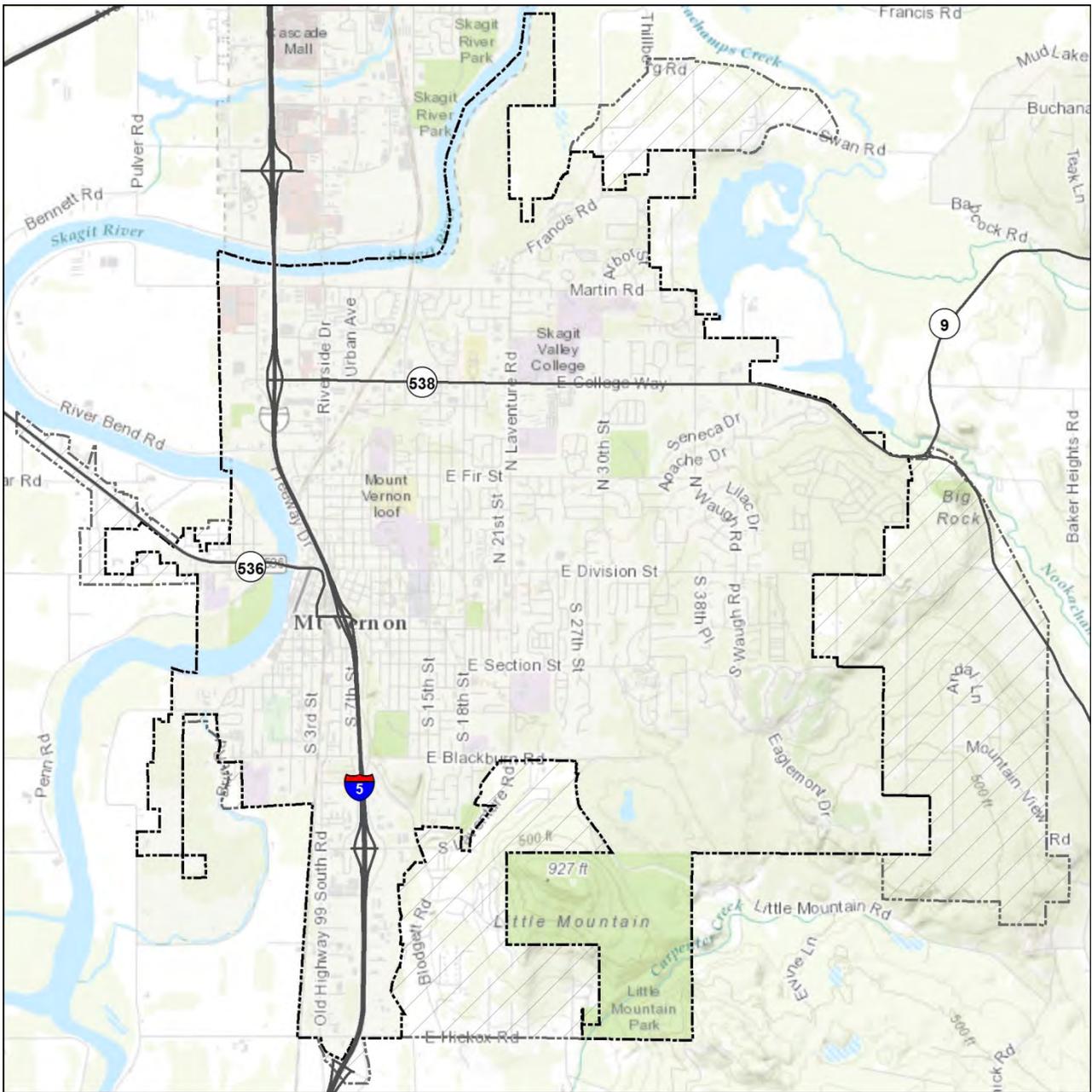
1. Mount Vernon's Landscape setting;
2. Mount Vernon's demographics; and,
3. Mount Vernon's land use patterns.

1. MOUNT VERNON'S LANDSCAPE SETTING

The City is situated with the Seattle metropolitan area approximately 60 miles to the south, Vancouver B.C. approximately 80 miles to the north, and the Puget Sound approximately six miles to the east. Following are two maps illustrating the City's regional and local setting.

MAP 1.0: REGIONAL SETTING





MAP 2.0: LOCAL SETTING

- City Boundary
- Urban Growth Area
- State Highway
- Skagit County Boundary

Basemap and data courtesy of ESRI, Skagit County, WSDOT, City of Mount Vernon

Map by MV GIS 7/5/2016

2. MOUNT VERNON'S DEMOGRAPHICS

Skagit County is comprised of four cities: Anacortes, Burlington, Mount Vernon, and Sedro-Woolley, along with four towns: Concrete, Hamilton, LaConner, and Lyman. In 2015 each of Skagit Counties' four towns had populations of less than 1,000 people and were comprised of 1.4 square miles or less. As such, the towns are not included in the comparisons below because their demographics are significantly different than unincorporated Skagit County and the cities analyzed below.

Table 1.0 provides the size in square miles of Mount Vernon, the listed cities, and unincorporated Skagit County.

TABLE 1.0: JURISDICTION SIZES 2015

JURISDICTION	2015 SIZE IN SQUARE MILES ¹
Mount Vernon	12.63
Anacortes	13.16
Burlington	4.09
Sedro-Woolley	4.15
Unincorporated Skagit County	1,693.52

¹ State of WA: Office of Financial Management. (2015, December). 2015 Data Book.

Table 2.0 and graphs 2.1 and 2.2 list and show how Mount Vernon's population has grown over time; and compares this growth to other Skagit County cities and unincorporated Skagit County.

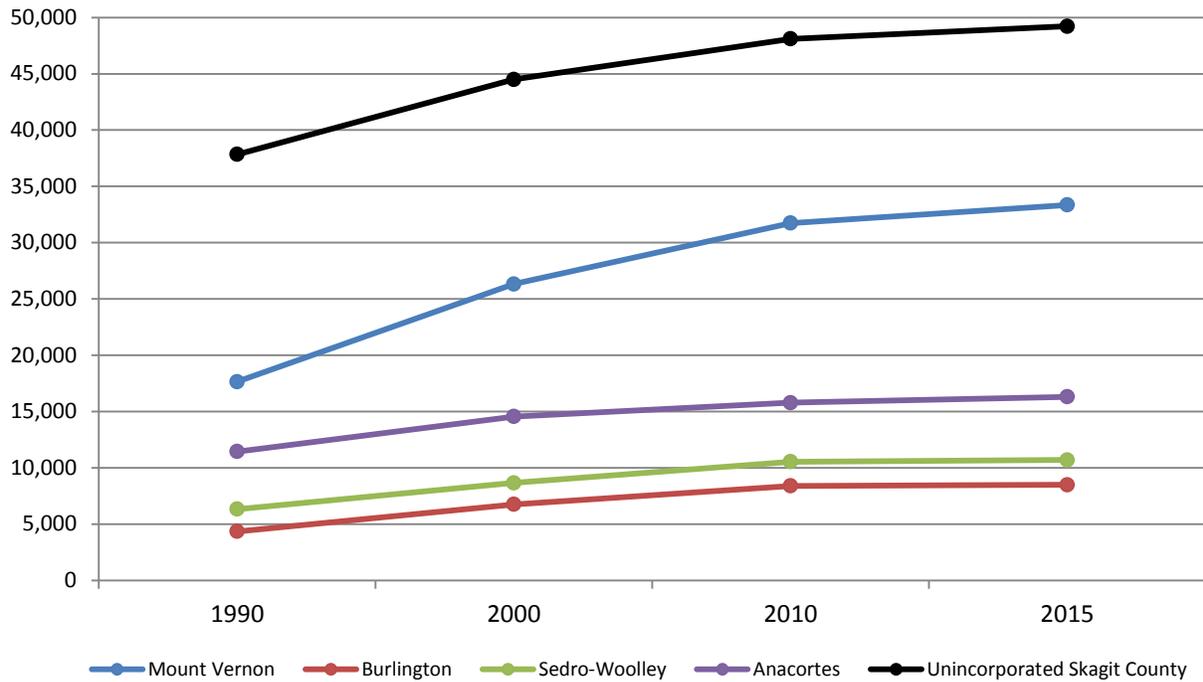
TABLE 2.0: POPULATION GROWTH 1990 - 2015

YEAR	POPULATION				
	Mount Vernon	Burlington	Sedro-Woolley	Anacortes	Unincorporated Skagit County
1990 ¹	17,647	4,349	6,333	11,451	37,841
2000 ¹	26,332	6,757	8,658	14,557	44,506
2010 ¹	31,743	8,388	10,540	15,778	48,110
2015 ²	33,350	8,485	10,700	16,310	49,220

¹ 1990 – 2010 population: U .S. Census Bureau; Census 1970, 1980, 1990, 2000, 2010 Profile of General Population and Housing Characteristics: Mount Vernon City, WA. Retrieved October 20, 2016 from www.factfinder.census.gov

² 2015 population: Office of Financial Management (2016, April 1). Population of Cities, Towns and Counties Used for Allocations of Selected State Revenues State of WA.

GRAPH 2.1: POPULATION GROWTH 1990 - 2015



GRAPH 2.2: 2015 TOTAL POPULATION

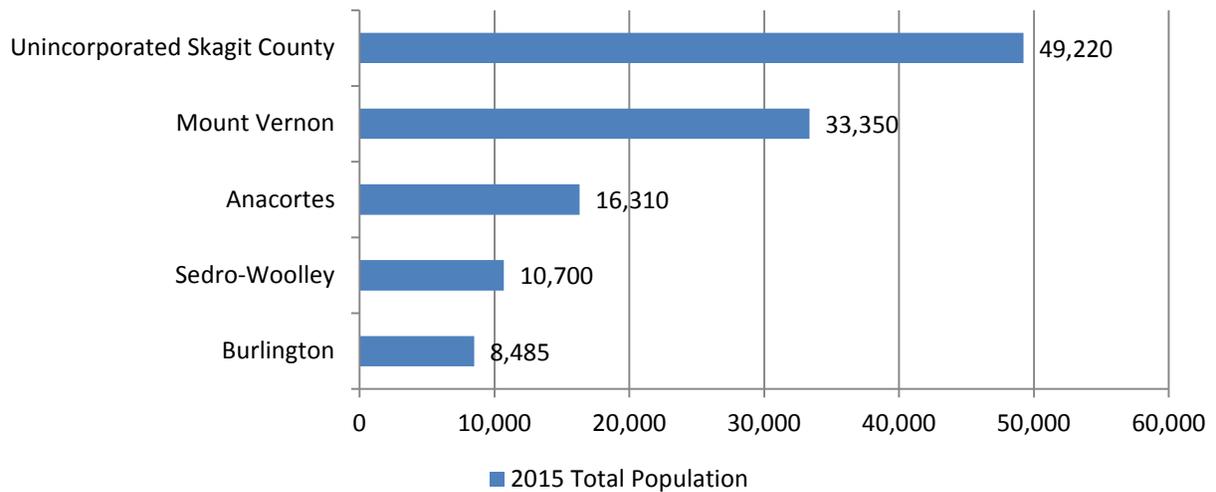


TABLE 3.0: POPULATION DENSITY 2015

JURISDICTION	2015 SIZE IN SQUARE MILES ¹	POPULATION ²	DENSITY POPULATION/SQUARE MILES
Mount Vernon	12.63	33,350	2,640.5
Anacortes	13.16	16,310	1,239.4
Burlington	4.09	8,485	2,074.5
Sedro-Woolley	4.15	10,700	2,578.3
Unincorporated Skagit County	1,693.52	49,220	29.1

¹ State of WA: Office of Financial Management. (2015, December). 2015 Data Book.

² Office of Financial Management (2016, April 1). Population of Cities, Towns and Counties Used for Allocations of Selected State Revenues State of WA.

Table 4.0 contains the number of Mount Vernon residents that are under the age of 18 and compares this age demographic to Skagit Counties' other cities.

TABLE 4.0: RESIDENTS UNDER 18 YEARS OF AGE IN 2014

JURISDICTION	POPULATION ¹	RESIDENTS UNDER 18 ²	% OF POPULATION UNDER 18
Mount Vernon	33,350	9,119	27%
Anacortes	16,310	2,890	18%
Burlington	8,485	2,160	25%
Sedro-Woolley	10,700	2,835	26%

¹ Office of Financial Management (2016, April 1). Population of Cities, Towns and Counties Used for Allocations of Selected State Revenues State of WA.

² U.S. Census Bureau. (2014). American FactFinder fact sheet: Population Under 18 Years by Age: Anacortes, Burlington, Mount Vernon, Sedro-Woolley. Retrieved October 20, 2016, from <http://factfinder.census.gov>.

3. MOUNT VERNON'S LAND USE PATTERNS

The City's land use patterns have, over time, been heavily influenced by the location of the Skagit River, the Burlington Northern Railroad, Interstate-5, State Routes 536 and 538, and the topographic changes that occur as one heads east and southeast through the City.

The City's first business district was formed on the east side of the river where the City's historic downtown district still exists today (generally between Division and Kincaid Streets). Additional business/commercial/industrial areas have developed around major transportation corridors such as Interstate-5, Riverside Drive, College Way (SR 536) and more recently in the South Mount Vernon area where both Old Highway 99 and Interstate-5 run north/south.

Historically natural disasters such as floods and fires spurred residential growth at higher elevations on the east side of the City moving away from the Skagit River and Interstate-5. In large part these land use patterns still exist today.

Following is **Map 3.0** that illustrates the City's overall land use types; e.g., commercial/industrial, residential, and other (public, open spaces, etc). In addition to this map, Tables 5.0, 6.0 and Graph 6.1 summarize the acreage of the City's land use types. Evident is that the City is composed predominately of areas used for residential purposes.

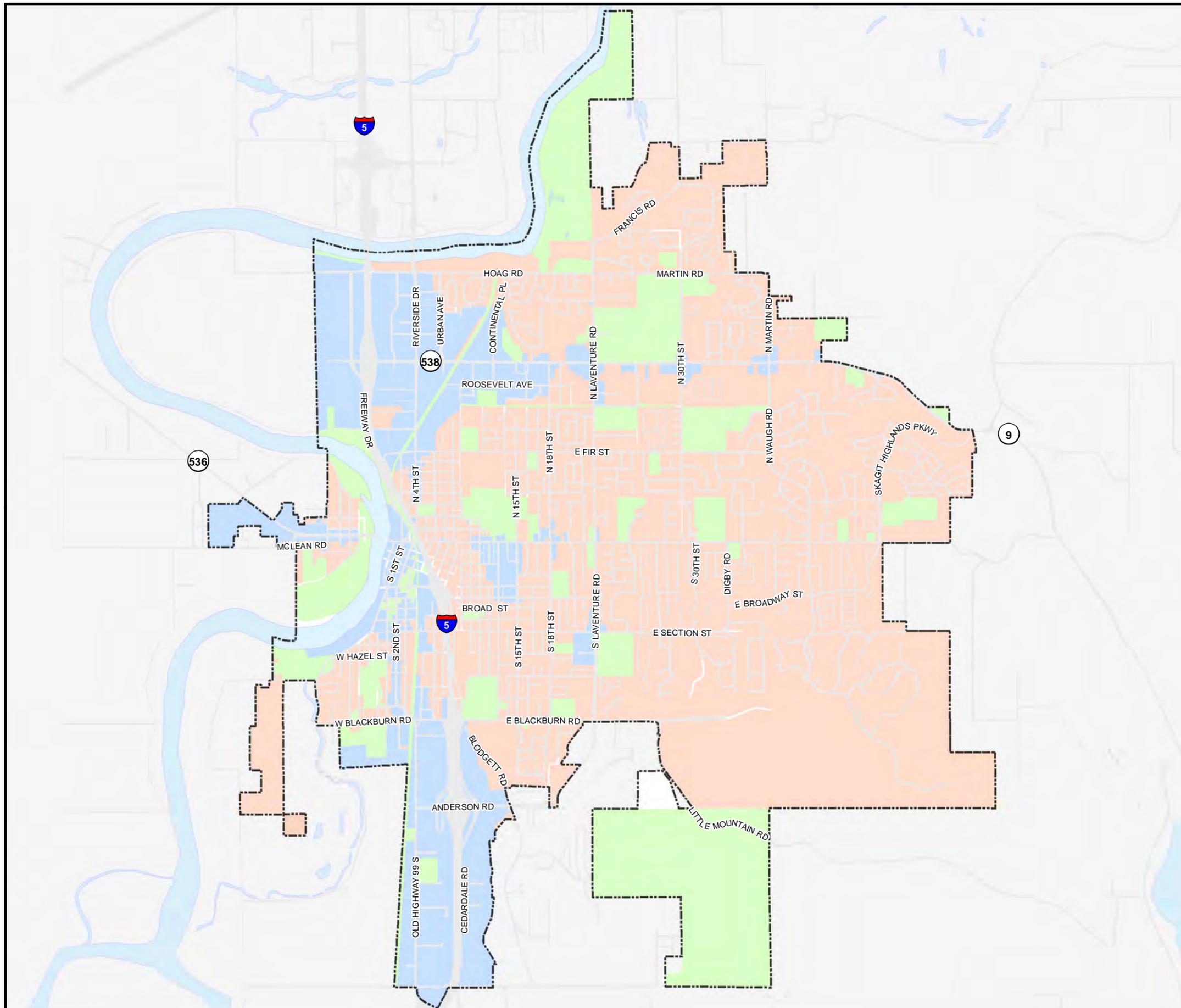
It is important to understand that **Map 3.0**, Tables 5.0, 6.0 and Graph 6.1 have been created using the City's existing zoning information. This distinction is important because the zoning designation of property does not always directly correlate to the actual use of a site. For example, the City has a number of properties that are zoned for commercial or industrial uses that contain existing residential structures being used for residential purposes. While existing residential uses in commercial or industrial zones are observed throughout the City it is far more unusual to see commercial or industrial uses in residential zones.

Additionally, the City has four zoning designations that allow for mixed use development that either do, or potentially could, have both residential and commercial primary permitted or conditional uses in close proximity to each other. These mixed use zones include: Residential Office (MVMC Chapter 17.33), Central Business District (MVMC Chapter 17.45), Community Commercial District (MVMC Chapter 17.51), and Neighborhood Commercial District (MVMC Chapter 17.54).



"Adult Uses" Planning Study
Map 3.0
General Land Use Types

- Residential Zoning
- Commercial Zoning
- Other Non-Commercial Zoning
- City Boundary
- Water Body



Map updated 10/24/2016 by MV GIS, Parcel data courtesy of Skagit County GIS

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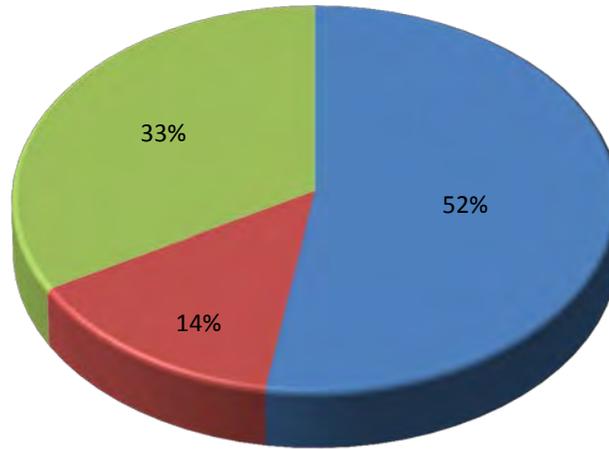
TABLE 5.0: MOUNT VERNON LAND USE TYPES

	ZONING DESIGNATIONS	ACRES
RESIDENTIAL LAND USES	Single-Family Residential (R-1, 3.0, 4.0, 5.0, 7.0, Eaglemont PUD, and R-A)	3,999
	Multi-family Residential (R-2, R-3, R-4)	363
	Mobile Home Park (MHP)	126
COMMERCIAL AND INDUSTRIAL LAND USES	Commercial (C-2)	510
	Commercial Allowing Residential Uses (C-1, C-3, C-4, R-O)	78
	Commercial Light Industrial (C-L)	416
	Industrial (M-1, M-2)	112
	Healthcare Development District	29
	Professional Office, Limited Commercial (P-O, LC)	33.5
OTHER LAND USES	Public	1,376
	Skagit River, Dike, Flood, Right-of-Way, and Railroad	991.5
TOTAL ACREAGE:		8,034

TABLE 6.0: SUMMARY OF LAND USE TYPES

LAND USE INFORMATION	ACRES	% OF THE CITY
Total Land Area within Mount Vernon	8,034	100%
Residential Uses Land Area	4,178	52%
Commercial & Industrial Land Area	1,149	14%
Public, River, Floodplain & Right-of-Way	2,668	33%

GRAPH 6.1: MOUNT VERNON LAND USE TYPES



■ Residential ■ Commercial and Industrial ■ Public, River, floodplain and row

This existing conditions section can be summarized as follows:

- Mount Vernon is more than three times larger (in land area) than Burlington or Sedro-Woolley.
- Unincorporated Skagit County is 134 times larger (in land area) than Mount Vernon and Anacortes is .53 square miles larger than Mount Vernon.
- Mount Vernon has two times as many residents as Anacortes, three times as many residents as Sedro-Woolley, and nearly four times as many residents as Burlington.
- Unincorporated Skagit County has close to 16,000 more residents than Mount Vernon; however, unincorporated Skagit County is 134 times larger (in land area) than Mount Vernon making Mount Vernon's population density per square mile of land area 89 times more dense than unincorporated Skagit County.
- As a percentage of total population, Mount Vernon has more residents under the age of 18 than any of the other Skagit County cities do. In addition, as a total number Mount Vernon has three times as many residents under the age of 18 than any other Skagit County city.

C. IMPACTS ANALYSIS:

The City is vested with the authority to regulate land uses to ensure the public's health, safety, welfare, and economy is protected. When evaluating new regulations, or updating existing ones, the first item planning staff considers are foreseeable impacts generated from a given use that could produce land use and other secondary adverse impacts.

Research compiled to-date shows that numerous communities both in Washington State and across the Country have experienced negative secondary impacts from adult uses. Evaluating experiences from other jurisdictions that have experience with regulating adult uses is important because Mount Vernon is able to learn from these experiences and adopt regulations to mitigate the negative impacts others have endured.

A summary of some of the more significant negative impacts from existing adult entertainment uses in other jurisdictions are briefly summarized below with the full text of these reports accompanying this study in **Appendix A**.

- The City of Bellevue, WA lists secondary effects of increased incidence of crime, property values declining, and incompatibilities between land uses.
- The City of Des Moines, WA identified negative impacts from adult uses including: decreases in property values, deterioration of areas including deferred maintenance, economic impacts from increased turnover in tenants adjacent and near these uses, parking and traffic problems, attraction of transients, interference with parental responsibilities for children, incompatibility with residences, schools, churches, and park areas, and increased crime.
- The City of Kent, WA documented Incidence of increased crime, property values decreasing and neighborhoods deteriorating within areas located near adult uses.
- The City of Olympia, WA notes that adult oriented businesses generally create an atmosphere for increases in crimes such as assault, theft, robbery, prostitution, drug use, and others, that surrounding property values tend to decline as a result of the appearance of these businesses and the activities they attract.

Table 7.0, below, summarizes sensitive uses identified by other jurisdictions when they completed evaluations of adult uses in their respective jurisdictions.

TABLE 7.0: SENSITIVE USES IDENTIFIED BY OTHER JURISDICTIONS

JURISDICTION	SENSITIVE USES DEFINED
EVERETT	Public Library Public playground or park Public or private school and its grounds, from kindergarten to twelfth grade Nursery school or day care center Church, temple, mosque, synagogue, or other place of religious worship Lot located in Residential zones
FEDERAL WAY	Public Park Library Day care center for children, nursery, or pre-school Church or other facility or institution used primarily for religious purposes Public or private elementary or secondary school
KELSO	Existing youth-oriented business or activity defined as: “Youth-oriented business or activity” means a business utilizing a permanent building or facility where children under the age of eighteen years are invited onto the business premises in conjunction with such business activity and at least fifty percent of the business revenue is generated from their patronage.
KENNEWICK	Residential zone Public or private school, or any trade or vocational school that on a regular basis has at least one student under the age of eighteen years Church or other religious facility or institution Park or any public facility or open space zone
KING COUNTY	Certain residential zones Schools Licensed daycare centers Public Parks or trails Community centers Public Libraries Churches
MUKILTEO	Residential zones Public Park Public library Public or private nursery school or preschool Public or private primary or secondary school Daycare Community Youth Center Place of Worship
OAK HARBOR	Schools Religious institutions Parks Certain Residential Zones

JURISDICTION	SENSITIVE USES DEFINED
THURSTON COUNTY	Property used for public and private schools; Property used for public parks; Property used for public libraries; Property used for state-certified day care; Property used for public community centers; Property used for churches, cemeteries or other religious facilities or institutions; Certain residential zones
VANCOUVER	Public park Child care facility licensed by the State of Washington Preschool Permanent religious institution Public or private elementary, middle, junior high or high school Certain residential districts
SNOHOMISH COUNTY	Private School Preschool Educational Institution Church or other Religious Facility Public or Private Park Youth Oriented Facility Establishment Serving Alcohol by the Drink

After much research, planning staff identified the following list of uses that should be buffered from adult uses due to the sensitive nature of these uses and the high potential for secondary adverse impacts. The following list of sensitive uses were chosen primarily because they are uses in areas where minor children and families are likely to congregate and be present.

TABLE 8.0: SENSITIVE USES IDENTIFIED BY MOUNT VERNON

SENSITIVE USE:	DEFINITION OF SENSITIVE USE:
PARKS	A tract of land owned or maintained by a public entity that is designated for and used by the public for active and passive recreational activities.
TRAILS	Linear shaped facilities designed and intended for the public to walk, run, or otherwise travel across that are owned or maintained by the City of Mount Vernon.
CHURCHES	Are buildings or structures, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.
SCHOOLS	Any building or part thereof designed, constructed, or used for formal educational uses that are recognized by the Washington state superintendent of public instruction. This definition includes both public and private schools.

SENSITIVE USE:	DEFINITION OF SENSITIVE USE:
CHILD CARE CENTERS	Are facilities that regularly provide child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.
LIBRARIES	Facilities that include organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.
GAME ARCADES	Are entertainment venues featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

D. LOCATION ANALYSIS:

Now that staff has outlined the existing conditions of the City in terms of its landscape setting, demographics, and land use patterns and evaluated the land use and secondary impacts likely to occur from adult uses, staff is able to make informed recommendations with regard to where these uses will result in the fewest negative impacts.

The list below contains the steps of the assessment that staff completed to answer the question of where should adult uses should be allowed in the City.

1. **REMOVED RESIDENTIALLY ZONED AREAS FROM CONSIDERATION.** The City is comprised of nineteen distinct zoning classifications. The intent of, and primary permitted uses, in six of these zones are residential uses (R-A, R-1, R-2, R-3, R-4 and MHP). These zones largely prohibit commercial, industrial and other similar uses as a way to protect the living environment within these zones.

Additionally, these residential areas have historically, and will continue to be subject to development regulations in terms of road width, utility sizing and the like, aimed at residential areas and uses. This is important because roads would need to be widened, paved parking areas would need to be created, and utilities like potable water and sanitary sewer would likely need to be upsized to serve a commercial or industrial use in an existing residentially zoned area.

For these reasons all of the City's residential zones listed above were not considered as areas where adult uses could be located. Please see the accompanying **Map 3** that delineates the described residential areas from other zones within the City.

2. **BUFFERED EXISTING SENSITIVE LAND USES.** Due to the well documented negative secondary impacts from adult uses, staff determined that these uses are not compatible with certain sensitive land uses where minor children and families are likely to congregate and be present including: residences, parks, trails, churches, schools, child care facilities, libraries, and game arcades.

To buffer these sensitive uses from adult entertainment uses staff needed to determine the distance these incompatible uses need to be separated from adult uses. To make a recommendation on the appropriate separation staff evaluated different separations (or buffers) that a number of different jurisdictions have adopted as part of their development regulations for adult uses. **Table 9.0** summarizes these separations.

TABLE 9.0: EXAMPLES OF ADULT USE BUFFERS FROM OTHERS

	SENSITIVE USES	OTHER ADULT USES
EVERETT	250'	1000'
FEDERAL WAY	1000'	1000'
KELSO	600'	NA
KENNEWICK	500'	1500'
KING COUNTY	300'	3000'
MUKILTEO	800'	500'
OAK HARBOR	750'	NA
VANCOUVER	1000' 500' residential districts	NA
SNOHOMISH COUNTY	330' and 660' (depending on adult use)	660'
THURSTON COUNTY	330'	NA

Analyzing the buffers that other jurisdictions have chosen in conjunction with an evaluation of the City's street network and block length has led staff to recommend a minimum distance of 650 feet between adult uses and sensitive uses.

Map 4.0, found on the following page, identifies 650-foot buffers around the sensitive areas the City has identified in Table 8.0.

- 3. SELECTED C-L ZONING SOUTH OF BLACKBURN ROAD.** Analyzing the commercial and industrial zoned property outside of the 650-foot buffer zones placed around sensitive land uses listed in **Table 8.0** lead staff to select the C-L zoned property south of Blackburn Road and east of the Burlington Northern Santa Fe (BNSF) rail line (illustrated on **Map 5.0** that follows) as the least impactful area to locate adult uses.

Staff found that although there were small pockets of commercial and industrial zoned property outside of the sensitive use buffers not within the C-L zoned area south of Blackburn Road and east of the BNSF rail line, many of these areas are in close proximity to commercial and retail uses frequented by minor children and their families. For example, in the northwest part of the City there exists many retailers and restaurants such as Wal-Mart, Lowes Home Improvement, Rite Aid, Burger King, IHOP, among many others.

The City's adopted Comprehensive Plan contains the following Goals, Objectives and Policies related to buffering incompatible uses, protecting residential neighborhoods, enhancing tourism, and prioritizing the beautification of the City.

LAND USE ELEMENT:

OBJECTIVE LU-1.2 Maintain and enhance the character of existing single-family neighborhoods but not preclude redevelopment and/or new development within established neighborhoods.

Policy LU-1.2.1 Provide development regulations that create a compatible pattern of development within established neighborhoods. The development standards shall address densities, building setbacks, parking and landscaping.

GOAL LU-5 ENHANCE AND IMPROVE THE QUALITY OF SINGLE-FAMILY LIVING ENVIRONMENTS THROUGHOUT THE CITY.

OBJECTIVE LU-5.1 Ensure that new development in the single-family residential designations are designed to provide quality homes and neighborhoods for residents and take care to mitigate impacts of new development on existing neighborhoods.

GOAL LU-6 ENHANCE AND IMPROVE THE QUALITY OF MULTI-FAMILY LIVING ENVIRONMENTS THROUGHOUT THE CITY THAT PROVIDE AREAS THAT OFFER A LARGER RANGE OF HOUSING OPTIONS IN THE FORM OF MULTI-FAMILY UNITS.

Policy LU-6.1.3 Due to increased impacts to privacy and personal living space inherent in higher density living environments, new development shall be designed to create a high quality living environment with ample public open spaces within a walkable urban context.

Policy LU-6.1.4 Evaluate project proposals in residential multi-family designations to consider the transition to lower density uses where multi-family sites abut lower density zones. Setbacks may be increased, heights reduced, and additional landscape buffering required through site plan review.

Policy LU-6.1.5 New multi-family residential projects should demonstrate provisions for an environment that contributes to a high quality of life for future residents, regardless of income level.

Policy LU-8.2.6 Development should be designed to mitigate potential adverse impacts on adjacent properties with different zoning designations (i.e., residential or public zoning). Careful consideration of impacts from lighting, landscaping, and setbacks should all be evaluated during site design.

GOAL LU-9: TO MINIMIZE POTENTIAL NOISE IMPACTS TO THE SURROUNDING RESIDENTIAL NEIGHBORHOOD ALL NON-RESIDENTIAL USES SHOULD BE CLOSED FOR BUSINESS AT REASONABLE TIMES.

GOAL LU-10: DEVELOPMENT REGULATIONS SHALL BE ADOPTED TO REDUCE THE NEGATIVE VISUAL, NOISE, ODOR, AND EXHAUST IMPACTS FROM GARBAGE AND RECYCLING RECEPTACLES, LOADING DOCKS, AND DRIVE THROUGH LANES.

GOAL LU-12: DEVELOPMENT REGULATIONS SHALL BE ADOPTED TO REDUCE THE APPARENT MASS OF LARGER COMMERCIAL BUILDINGS, TO PROVIDE VISUAL INTEREST, AND TO HELP BLEND INTO THE RESIDENTIAL NEIGHBORHOODS IN WHICH THEY ARE LOCATED.

GOAL LU-13: ENSURE THAT COMMERCIAL BUILDINGS ARE IN SCALE WITH THE SURROUNDING RESIDENTIAL NEIGHBORHOODS.

GOAL LU-14: DEVELOPMENT REGULATIONS SHALL BE ADOPTED THAT ENSURE THAT MECHANICAL EQUIPMENT, VAULTS, AND OUTDOOR STORAGE ARE SCREENED TO ENHANCE THE APPEARANCE OF THE COMMERCIAL BUILDINGS WITHIN THE NEIGHBORHOOD COMMERCIAL ZONE.

GOAL LU-15: DEVELOPMENT REGULATIONS SHALL BE ADOPTED THAT BALANCE SAFETY AND SECURITY AND THE RESIDENTIAL NATURE IN WHICH COMMERCIAL USES IN THE C-4 ZONE ARE LOCATED.

HOUSING ELEMENT:

GOAL 1: Promote the preservation, maintenance and enhancement of existing housing and residential neighborhoods throughout the City.

Objective HO-1.1 Promote infill housing that is compatible with abutting housing styles and with the character of the existing neighborhood.

Policy HO-1.1.1 Encourage infill housing on vacant or underutilized parcels having adequate services, and ensure that the infill development is compatible with surrounding neighborhoods.

Policy HO-1.1.2 Adopt development regulations that enhance existing single family neighborhoods by requiring significant changes in density be transitioned near these existing neighborhoods. Ways to transition from higher-density to existing single-family neighborhoods include (but are not limited to) the following: reducing densities and building heights closest to existing neighborhoods; and require landscaping treatments and fencing surrounding higher density developments.

Objective HO-1.2 Enhance the value, character and health of the City's existing housing stock by improving and extending the life of such housing.

Policy HO-1.2.1 In cooperation with Skagit County, the City should encourage the preservation of existing housing. Private investment should be encouraged in older residential neighborhoods, manufactured home parks, and multifamily complexes to ensure the health, safety and affordability of existing housing. Programs supporting weatherization, home repair and rehabilitation, and infrastructure maintenance should be supported.

HEALTH AND WELLNESS ELEMENT:

GOAL HW-2 IMPROVE THE SAFETY OF NEIGHBORHOODS AND PUBLIC SPACES.

Policy HW-2.1 Study ways to improve neighborhood involvement in crime prevention, neighborhood beautification, and the reduction of blight throughout the City.

GOAL HW-4 PRIORITIZE THE BEAUTIFICATION OF THE CITY.

Policy HW-4.2 Make streets, trails and other public spaces more visually appealing and comfortable for the public by ensuring that street trees are planted, landscaping is maintained and regularly inspecting and cleaning these areas.

ECONOMIC DEVELOPMENT ELEMENT:

GOAL 1 HAVE A STRONG PROACTIVE POSITON TOWARDS ECONOMIC PROSPERITY THAT PROMOTES A POSITIVE CIVIC IMAGE AND ESTABLISHES MOUNT VERNON AS A PREFERRED PLACE FOR INVESTMENT.

OBJECTIVE ED-1.5 Have a strong proactive positon towards revitalization of the downtown as a preferred place to live, work, and play.

OBJECTIVE ED-1.5 Enhance and support tourism in Mount Vernon

Policy 1.5.1 Grow the city’s tourism through special events that are consistent with the community’s values.

Policy 1.5.2 Promote tourism using multiple media outlets and highlight the community assets.

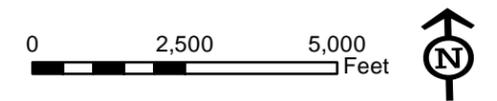
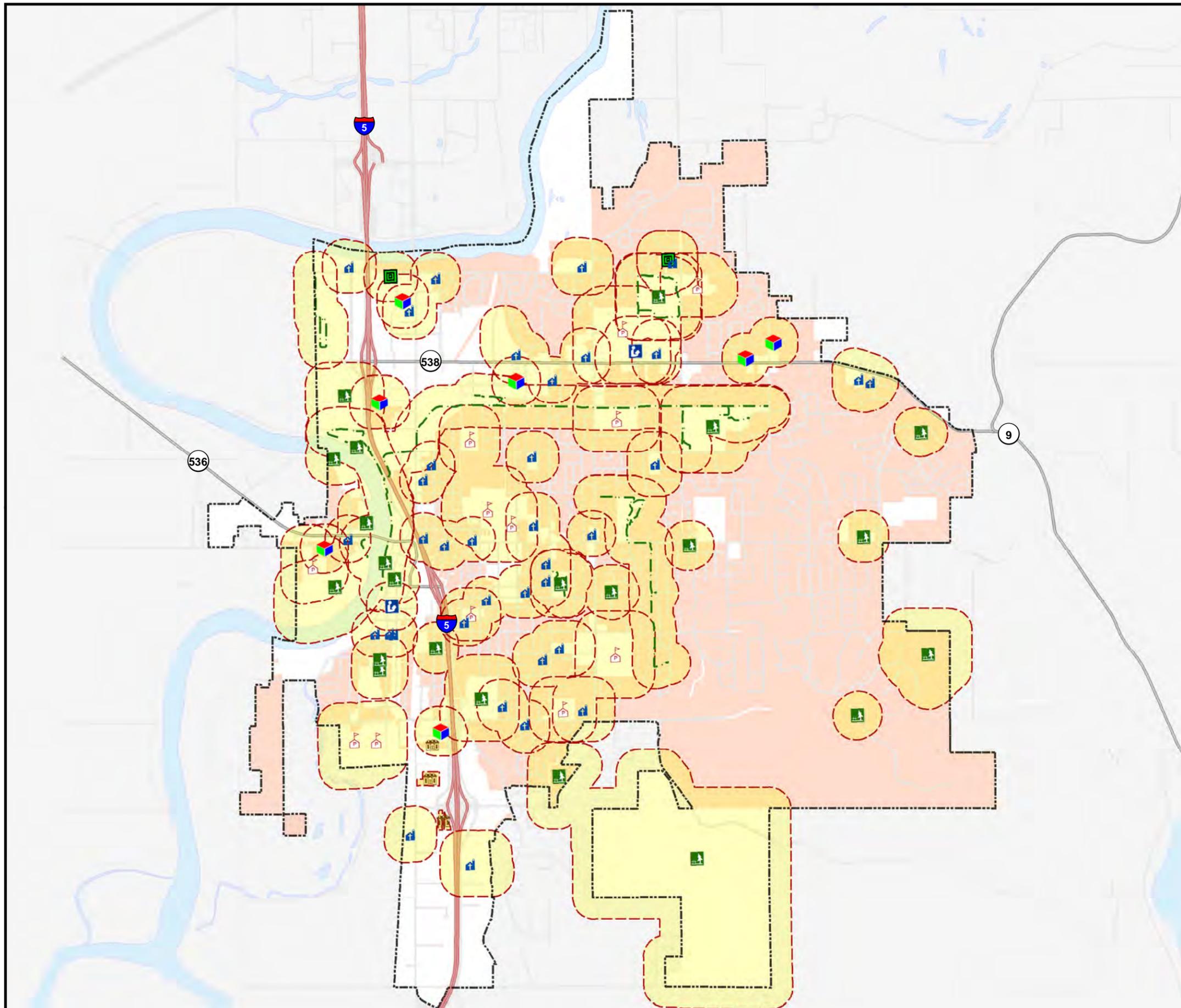
Policy 1.5.3 Continue to emphasize the City’s connection to its rich history to strengthen our community identity.

The permitted uses in the Commercial-Limited Industrial zone, codified as Chapter 17.56 of the MVMC, includes commercial uses such as retail stores, eating and drinking establishments, theaters, bowling alleys, skating rinks, and other entertainment uses. These types of commercial uses mirror the commercial uses allowed in the City’s Central Business District (C-1) and General Commercial District (C-2).



"Adult Uses" Planning Study Map 4.0 Sensitive Areas & Buffers

- 650' Sensitive Area Buffer
- Residential Zone
- City Boundary
- Water Body
- Sensitive Areas**
 - Park
 - Residential Use
 - Church
 - School
 - Daycare
 - Library
 - Game Arcade
 - Trail



Map updated 10/24/2016 by MV GIS, Parcel data courtesy of Skagit County GIS
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4. **INVENTORY OF C-L ZONED PROPERTY SOUTH OF BLACKBURN ROAD.** To ensure there exists ample opportunities for those wishing to own and operate businesses with adult uses staff completed an in-depth inventory and analysis of the geographic area staff selected as the least impactful area to allow these uses to operate in the City.

To begin this inventory and analysis the following bulleted list of data was collected. All of this data was and analyzed using Geographic Information System (GIS) software.

- Skagit County Assessor’s tax parcels;
- Aerial photography produced in the Spring of 2015;
- Zoning designations;
- Physical improvements on the site (building(s), parking lot(s), storage yards, etc);
- Parcel size;
- Approximate square footage of critical areas including wetlands, streams, and their associated buffers;
- Existing public utilities (sanitary sewer, storm sewer, potable water, power, and lighting);
- Existing public and private roads and associated pedestrian facilities; and,
- Location of the sensitive uses and their associated 650-foot buffers.

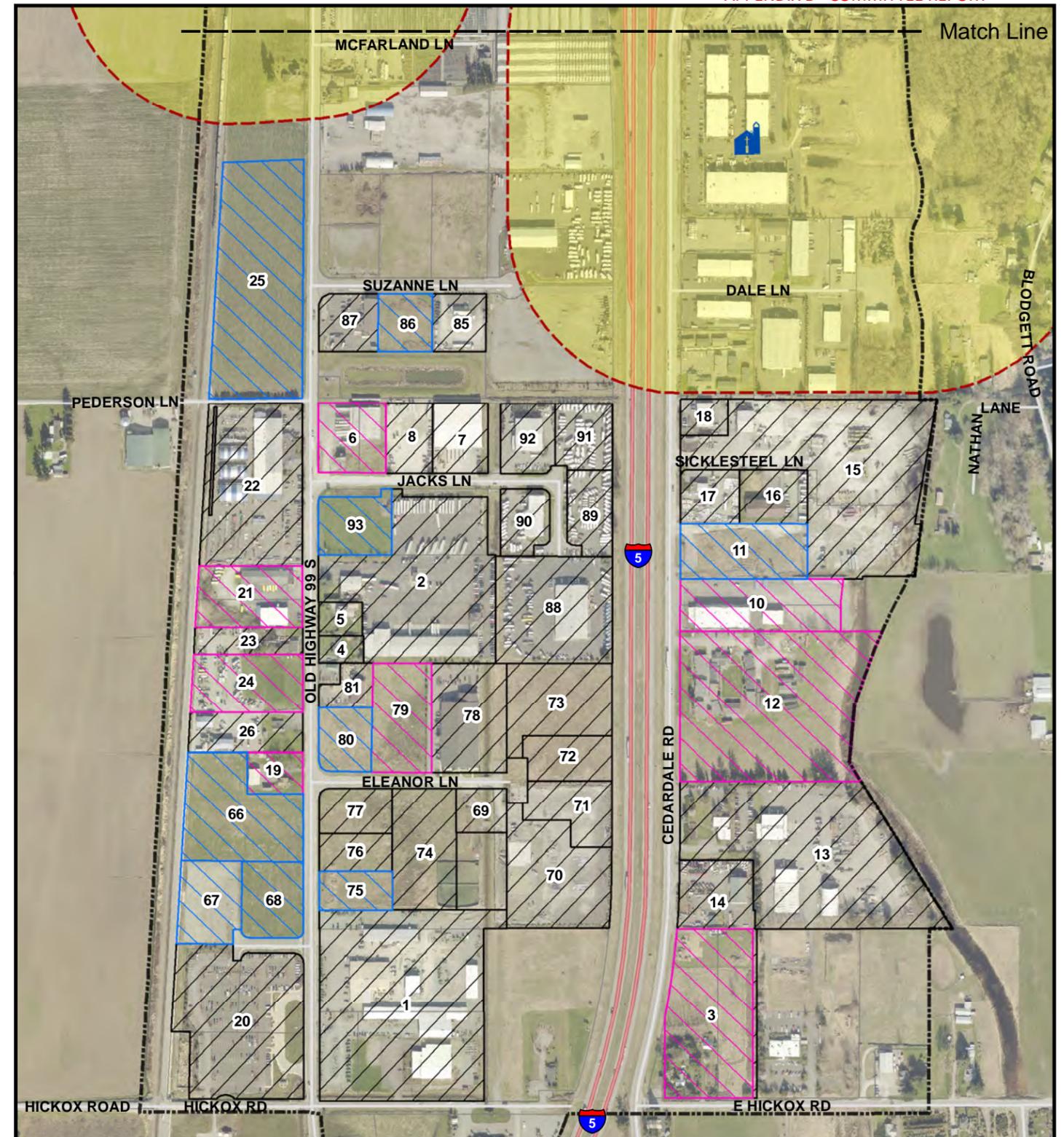
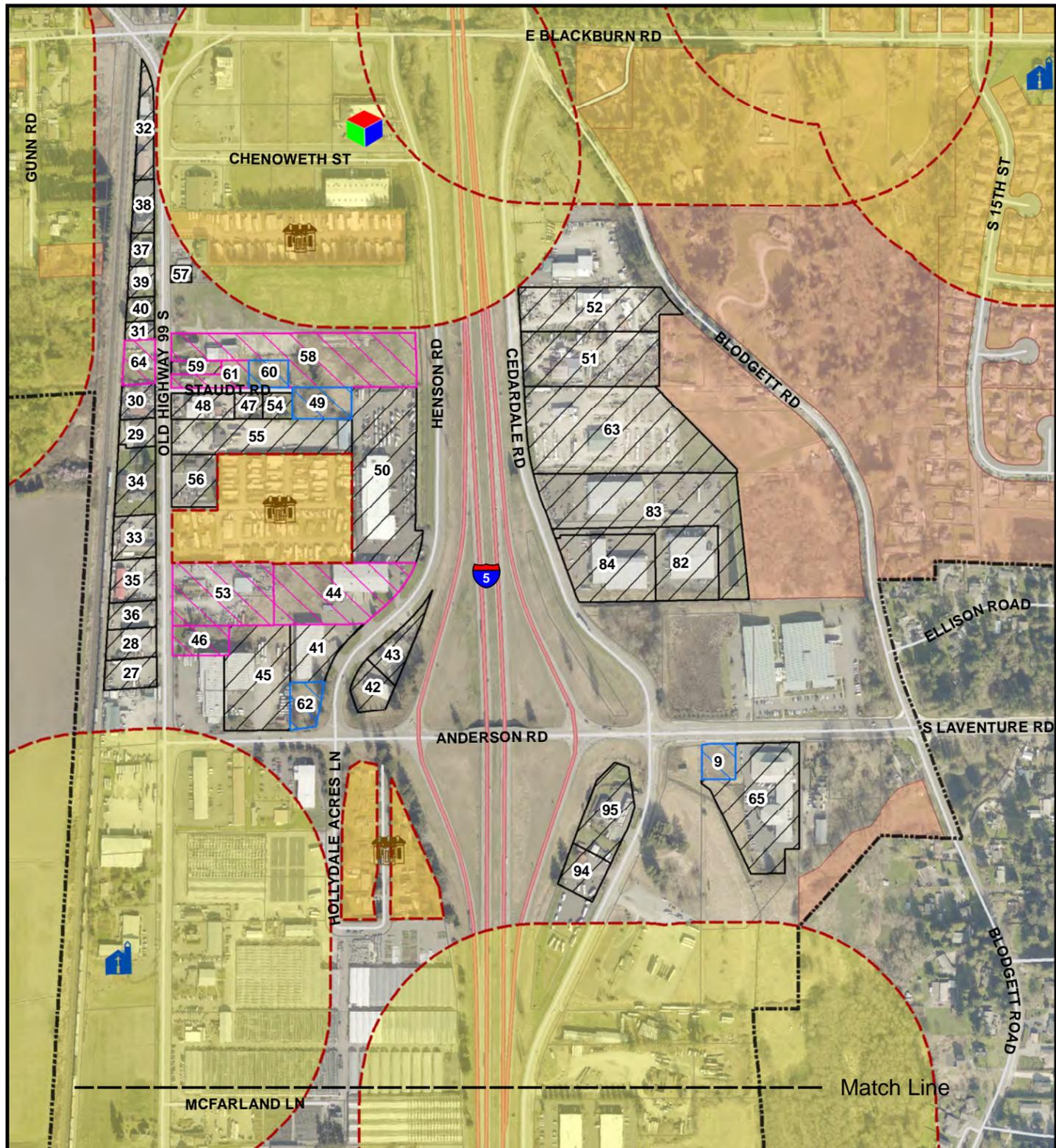
Once the above bulleted list of data was imported into the GIS software staff removed several areas from consideration:

- The sensitive uses and their associated 650-foot buffers that included a daycare center and two churches. If the 650-foot buffer touched part of a nearby parcel that entire parcel was removed from consideration.
- Location of the two existing mobile home parks, and the residential neighborhood accessed by Hollydale Acres Road; and,
- The property where the Skagit County jail is currently under construction.

With the sensitive land uses and their assigned buffers, existing parcels used for residential purposes, and the jail property removed staff was left with 95 sites needing to be evaluated further. The term “site” is used here to describe one or more Skagit County Assessor parcels; in many locations multiple contiguous assessor parcels with overlapping uses under common ownership were logically combined into single sites, e.g. the two parcels comprising the Barnhardt Crane property were combined into a single site.

These 95 remaining sites were then separated into three categories described below and shown on **Map 5.0** that follows.

1. Sites that had existing structures and parking lots such that no new buildings could be constructed – these were labeled as “fully-developed” sites;
2. Sites that have at least 10,000 square feet of un-encumbered property where new buildings and parking areas could be constructed – these were labeled as “partially-developed” sites; and
3. Sites that have not been developed with buildings, parking, etc – these were labeled as “vacant” sites.



"Adult Uses" Planning Study
Map 5.0
C-L Property South of Blackburn

Sensitive Areas

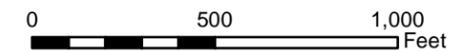
- Park
- Alcohol Sales
- Residential Use
- Church
- School
- Daycare
- Library
- Game Arcade

Trail

- South MV Vacant C-L Parcel
- South MV Partially-Developed C-L Parcel
- South MV Fully-Developed C-L Parcel

650' Sensitive Area Buffer

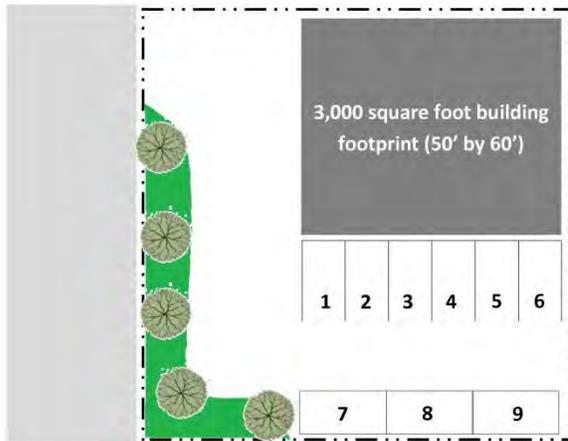
- Residential Zone
- City Boundary
- Water Body



Map updated 10/25/2016 by MV GIS, Parcel data courtesy of Skagit County GIS

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A 10,000 square foot lot size was chosen as the ideal lot size for a standalone development after evaluating dozens of commercial/industrial lots that are already developed and finding that a building with a 3,000 square foot footprint, with code compliant parking and landscaping could be developed on a 10,000 square foot lot. Please note that a 3,000 square foot building footprint means that a second or third story could be constructed that would double or triple the square footage of the hypothetical commercial/industrial building. Following is an illustration of how a building footprint, parking and landscaping could all be developed on a 10,000 square foot lot.

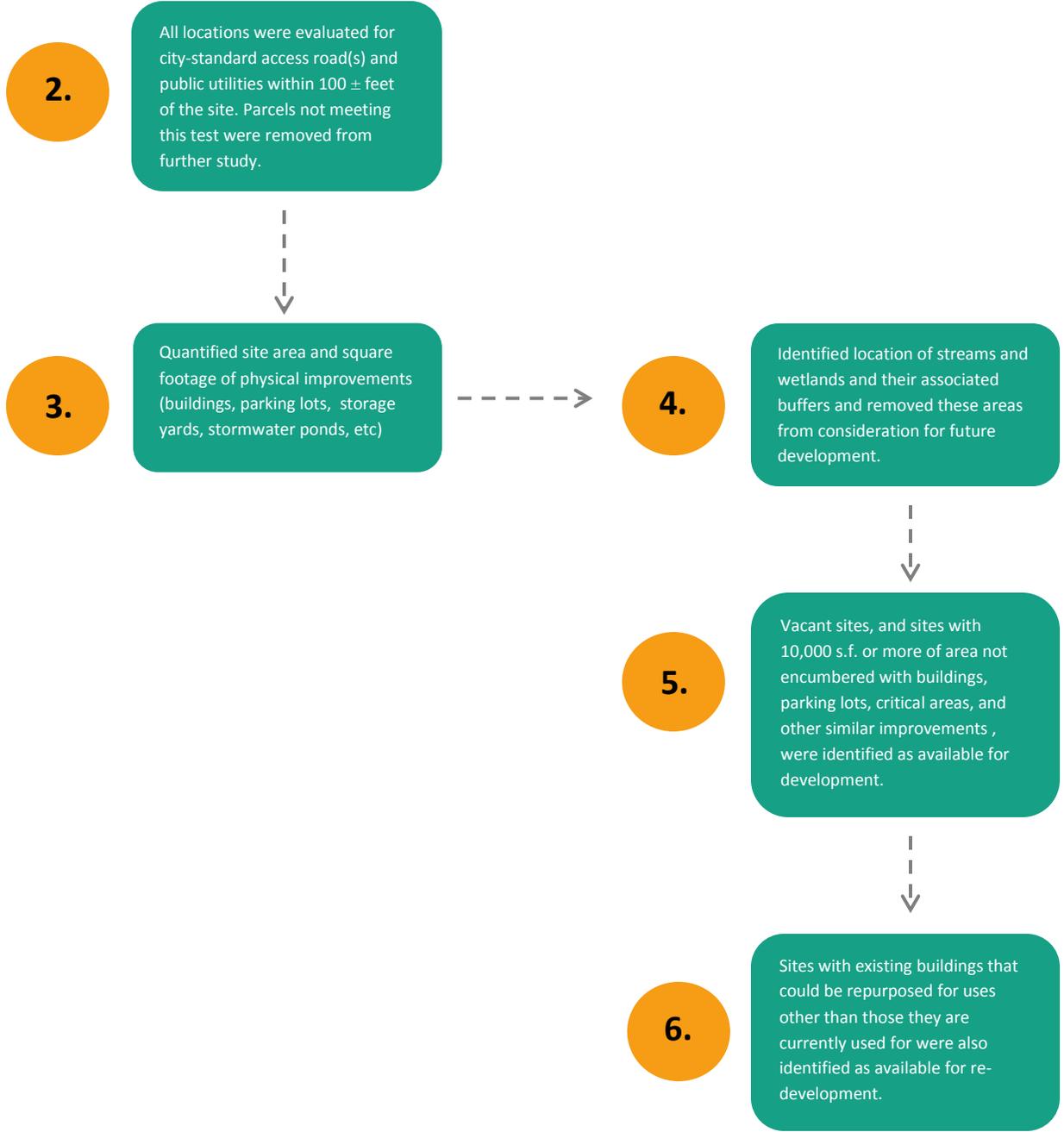


- 100' by 100' site shown
- 3,000 s.f. building footprint
- 9 parking stalls = 10' by 20'
- 10' landscape along front yard

All three categories of sites (fully-developed, partially-developed, vacant) were also evaluated to ensure that infrastructure to serve these sites was reasonably available; which staff defined as being within 100± feet of a site. The infrastructure that was inventoried included public and private roads, pedestrian access, lighting, potable water, sanitary and storm sewers and power. This reasonably available infrastructure analysis resulted in five Hickox Road sites totaling over 23 acres in size being removed from consideration prior to evaluation of aforementioned existing uses and critical area buffers.

The flowchart on the next page summarizes the steps staff took in making a determination about whether or not a particular parcel was available for future development or re-development.

1. PROPERTY DATA ON THE COMMERCIAL-LIMITED ZONE PARCELS SOUTH OF BLACKBURN ROAD COMPILED



When evaluating the subject parcels staff made efforts to determine whether or not a developed parcel was encumbered with a long-term lease. This was done by pulling available title reports and reading through deed histories available by the Skagit County Assessor's office for parcels identified on **Map 5.0**.

Nearly all of the parcels within the area being evaluated are within the 100-year floodplain as shown on **Map 6.0**. FEMA identifies the flood zone these areas are located in as Zone AO (Depth 1) at the far north of the area closest to Blackburn Road and Zone AO (Depth 2) across the remaining areas. Just because property is located in a flood zone it is not precluded from development. Rather, the City's development regulations (Chapter 15.36 of the MVMC, that are subject to continued review and approval by FEMA and the WA State Department of Ecology) require property developed in these flood zones to either elevate their buildings or flood proof them. In the AO (Depth 1) zone the finished floor of a building (not parking areas – just buildings) is required to be elevated two foot above the average adjacent grade or have the first two feet above grade flood proofed and in the AO (Depth 2) zone the finished floor of a building is required to be elevated three feet above the average adjacent grade or have the first three feet above grade flood proofed.

Accompanying this study in **Appendix B** is a spreadsheet of the parcels that staff has identified as being reasonably available to be developed for adult uses. In addition to the spreadsheet there are copies of as-built maps proving the availability of infrastructure, site specific wetland reports, and documentation of the location of type of streams that flow through this area.

Table 10.0 summarizes the total number and acreage of sites available on property zoned C-L south of Blackburn Road and east of the BNSF rail line shown on Map 5.0.

TABLE 10.0: SUMMARY OF SITE THAT COULD BE DEVELOPED WITH ADULT USES

	# OF SITES AVAILABLE FOR DEVELOPMENT OR RE-DEVELOPMENT	# OF SITES AVAILABLE FOR DEVELOPMENT OR RE-DEVELOPMENT
FULLY DEVELOPED SITES THAT COULD HAVE A NEW TENANT	68	123.7 acres
PARTIALLY DEVELOPED SITES THAT COULD ACCOMMODATE AT LEAST A 10,000 S.F. NEW DEVELOPMENT (BUILDING + PARKING + LANDSCAPING)	14	33.5 acres
VACANT SITES THAT COULD ACCOMMODATE AT LEAST A 10,000 S.F. NEW DEVELOPMENT(BUILDING + PARKING + LANDSCAPING)	13	21.7 acres
TOTAL OF ALL CATEGORIES	95	178.8 acres

With the information found in **Appendix B**, shown on **Map 5.0**, and summarized in **Table 10.0** staff is able to calculate the percentage of the City's overall commercial/industrial acreage potentially available for adult uses as well as the number of sites potentially available in relation to the City's population as follows.

TABLE 11.0: POTENTIAL ADULT USE AREAS & RELATIONSHIP TO POPULATION & ACREAGE

2015 POPULATION ¹	# SITES AVAILABLE FOR ADULT USES ²	RATIO
33,350	95	1 available site per every 351 people

CITY WIDE COMMERCIAL AND INDUSTRIAL ACREAGE ³	TOTAL ACREAGE AVAILABLE FOR ADULT USES ²	PERCENT
1,038	178.8	17.2%

¹ 2015 population: Office of Financial Management (2016, April 1). Population of Cities, Towns and Counties Used for Allocations of Selected State Revenues State of WA.

² See page 28, Map 5 and Appendix B of this report for this data

³ See page 14, Table 5.0, aggregate of C-2, C-L, M-1, and M-2 zones

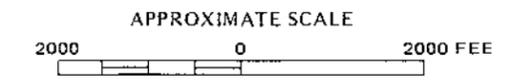
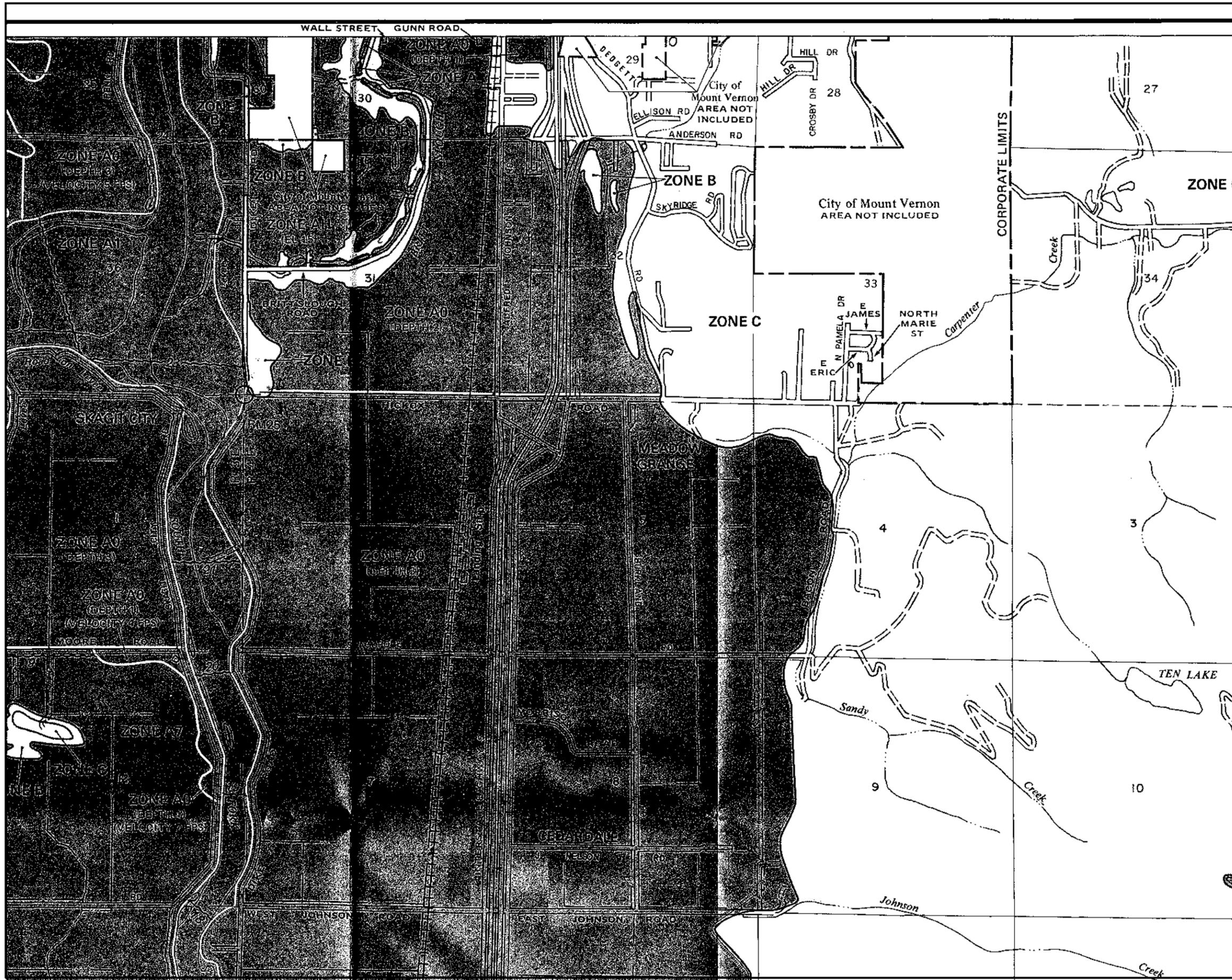
TABLE 12.0: COMPARISON OF MOUNT VERNON ADULT ENTERTAINMENT USE AREAS TO OTHER JURISDICTIONS

JURISDICTION	RATIO OF SITES AVAILABLE FOR ADULT USES TO POPULATION	PERCENT OF JURISDICTION WIDE COMMERCIAL/INDUSTRIAL ACREAGE AVAILABLE FOR ADULT USES
Mount Vernon	1 available site per every 351 people	17.2%
Snohomish County ¹	1 available site for every 3,805 people	7%
San Diego County ¹	1 available site per every 6,911 persons	4.46%
City of Everett	1 available site per every 3,522 persons ^{2,3}	NA

¹ McKibben v. Snohomish County, 72 F. Supp. 3d 1190 (2014) – court case cites the ratio and percentages listed within this table

² Wallock v. City of Everett, Central Puget Sound Growth Management Hearing Board, WA State, Case No. 96-3-0025, Final Decision and Order. This case references the fact that Superior Court Judge Anita Farris made findings in the related Superior Court case including that she found there were 24 parcels of lots to choose from.

³ In 1996 when the above referenced Wallock v. City of Everett case (No. 96-3-0025) was heard by the Central Puget Sound Growth Management Hearings Board the population of the City of Everett was listed at 84,534 by the Office of Financial Management in their Intercensal Estimates of April 1 Population and Housing, 1990-2000.



NATIONAL FLOOD INSURANCE PROGRAM

**FIRM
FLOOD INSURANCE RATE MAP**

**SKAGIT COUNTY,
WASHINGTON
(UNINCORPORATED AREAS)**

**PANEL 425 OF 550
(SEE MAP INDEX FOR PANELS NOT PRINTED)**

**"Adult Uses" Planning Study
MAP 6.0B**

**COMMUNITY-PANEL NUMBER
530151 0425 C**

**EFFECTIVE DATE:
JANUARY 3, 1985**



Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov

**City of Mount Vernon
Adult Entertainment Advisory Committee Meeting
November 29, 2016**

Please Print Your Name & Email Address

1. Kathleen Bisagna kbisagna@hotmail.com
2. Patrick de scot NA
3. RYAN HAGMAN RYANH@3DIMENSIONAL.NET
4. Kari Matson Karmatson@gmail.com
5. LISA ZACHERL lisakzacherl@gmail.com
6. Kern Rogers kern@northavenue.org
7. _____
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17. _____
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19. _____
20. _____
21. _____

ADULT ENTERTAINMENT ADVISORY COMMITTEE AGENDA

2nd Meeting

December 22, 2016

2 PM –3 PM

City Hall - 910 Cleveland Ave

Downstairs Conference Room

2 – 2:10

REVIEW AND APPROVAL OF 11.29.16 MEETING MINUTES

2:10 – 2:35

CREATE COMMITTEE GOALS

2:35 – 2:50

ORGANIZE WORK/MEETINGS CONSISTENT WITH GOALS

2:50 – 3

PUBLIC COMMENTS

Public comment or testimony to be taken should anyone wish to attend and provide such comment or testimony

3

ADJOURN

ATTACHED:

- Suggestions for creating a framework of Committee Goals

**City of Mount Vernon
Adult Entertainment Zoning and Licensing Committee
APPROVED - Minutes from December 20, 2016**

THOSE PRESENT: Rebecca Lowell (City Staff), Krista Jewett (City Staff), Rudy Kerkvliet, Ryan Hagman, Kari Matson, Lisa Zacherl, and Brian Gentry

DISCUSSION: The meeting began at 2 pm. A motion by Ryan Hagman and a second by Lisa Zacherl, motion passed and the 11.29.16 minutes were approved.

R. Lowell discussed what secondary negative impacts were and how the committee needed to determine whether or not adult uses created secondary negative impacts. Goal is to create a list of these impacts at the December 27, 2016 meeting.

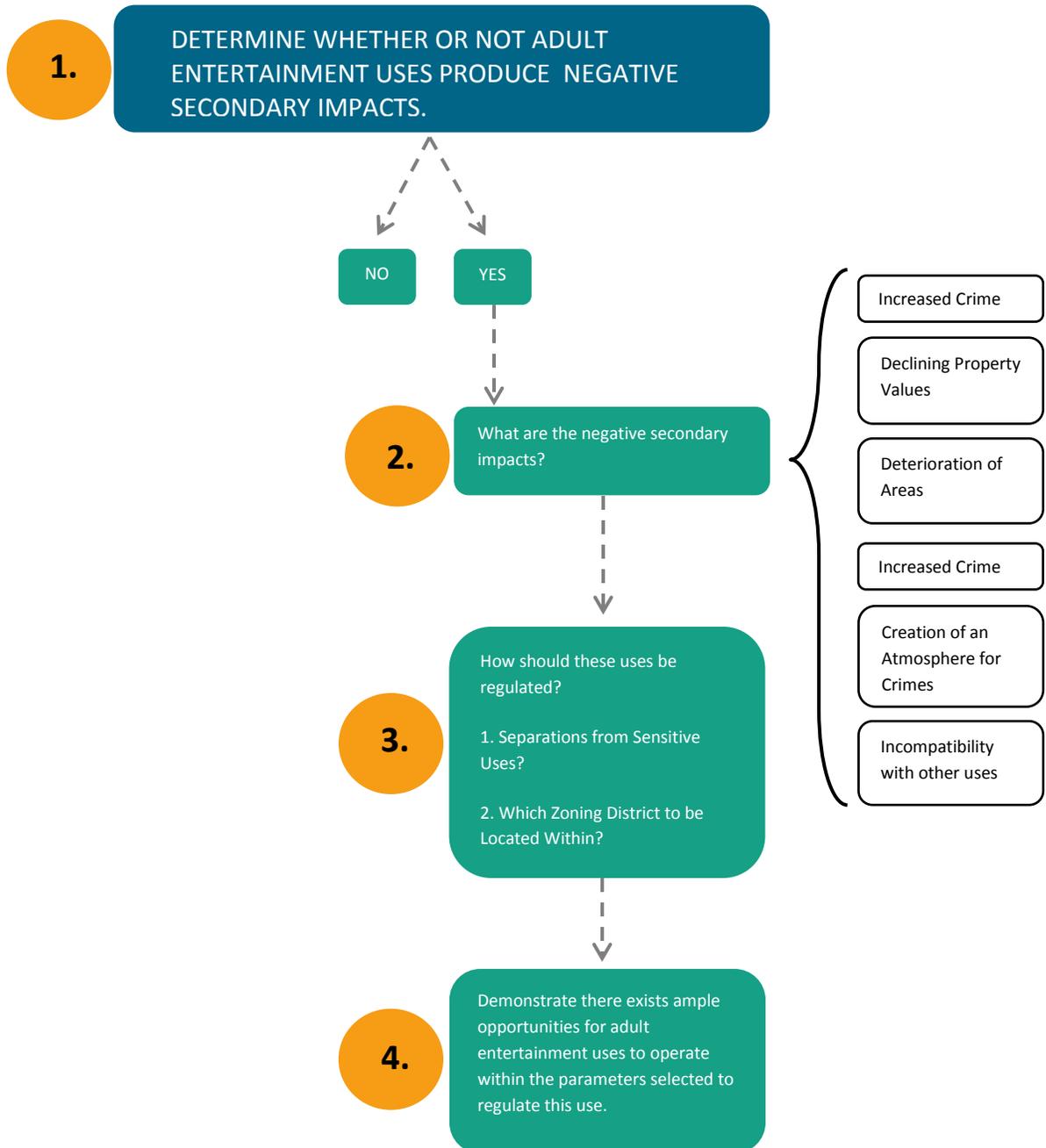
Discussion ensued within the group about impacts.

R. Lowell explained the process of determining the suggested area for the Adult Entertainment area.

R. Lowell outlined a proposed schedule for the committee that would culminate in a recommendation to the Planning Commission on February 7th.

ADJOURN: 3 PM

ADULT ENTERTAINMENT ADVISORY COMMITTEE GOAL FRAMEWORK



ADULT ENTERTAINMENT ADVISORY COMMITTEE GOAL FRAMEWORK

GOALS		SCHEDULE
1.	Determine whether or not adult entertainment uses produce negative secondary impacts.	December 27 th initial yes/no
2.	What are the negative secondary impacts?	December 27 th preliminary list of impacts
3.	How should these uses be regulated?	Both January meetings
4.	Demonstrate there exists ample opportunities for adult entertainment uses to operate within the parameters selected to regulate this use.	CEDD staff to assist with this
5.	Other?	



February 7th Open Record Public Hearing with Planning Commission



SIGN-IN SHEET
ADULT ENTERTAINMENT ADVISORY COMMITTEE
December 20, 2016

	Name	Address	City/State/zip	Phone	Email
1.	RUBY KERVIET	12344 BRUNNEN DR.	BURLEIGHTON, WA, 98253	360-708-5883	RUBY-K@COMCAST.NET
2.	Ryan Adams	18626 CASCADE VIEW	Mt. Vernon	360-770-7080	RyanAD@INVERSIONAL.NET
3.	Kari Matson	1911 Windsor Drive	Mt. Vernon	360-961-8161	karmatson@gmail.com
4.	LISA ZACHERL	1548 WOODLAND PL	MT. V	615 -406-4806	lizatzacherl@gmail.com
5.	BETH GENTRY	504 E. Fairhaven Ave	Burleighston	360-661-3880	BethW@LandedGentry.com
6.					
7.					
8.					
9.					

ADULT ENTERTAINMENT ADVISORY COMMITTEE AGENDA

3rd Meeting

December 27, 2016

2 PM –3 PM

City Hall - 910 Cleveland Ave

Downstairs Conference Room

2 – 2:10

REVIEW AND APPROVAL OF 12.20.16 MEETING MINUTES

2:10 – 2:35

**REVIEW OF SECONDARY NEGATIVE IMPACTS AND
PRELIMINARY LIST OF THESE IMPACTS IN MOUNT VERNON**

2:35 – 2:50

ZONING 101, LAND USES

2:50 – 3

PUBLIC COMMENTS

Public comment or testimony to be taken should anyone wish to attend and provide such comment or testimony

3

ADJOURN

ATTACHED:

- MS PowerPoint Slides from 12.20.16 Meeting

**City of Mount Vernon
Adult Entertainment Zoning and Licensing Committee
APPROVED - Minutes from December 27, 2016**

THOSE PRESENT: Rebecca Lowell (City Staff), Krista Jewett (City Staff), Rudy Kerkvliet, Kari Matson, Lisa Zacherl, Kathleen Bisagna and Brian Gentry.

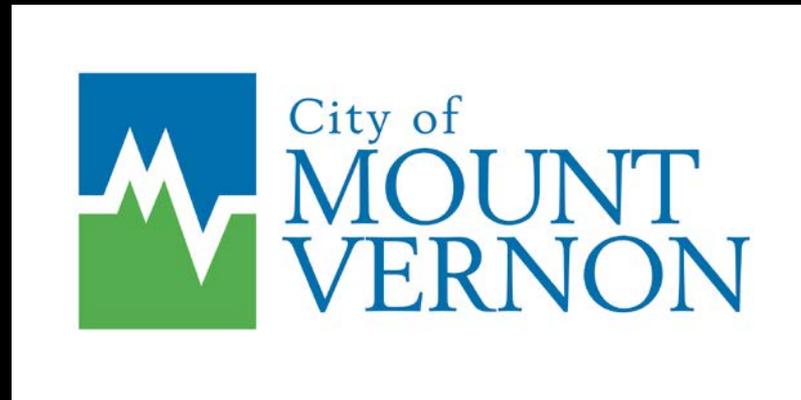
DISCUSSION: The meeting began at 2 pm. A motion by Rudy Kerkvliet and a second by Lisa Zacherl, motion passed and the 12.20.16 minutes were approved.

R. Lowell explained that the group would need to establish if secondary negative impacts would be created. Discussion ensued. Lisa Zacherl made a motion that the committee does agree that secondary impacts would be created. Brian Gentry made the second and the motion passed.

Discussion on the topic of signage and window dressing regulations, regulating hours of operation. Along with Primary and Secondary uses.

Discussion continued within the group about impacts.

ADJOURN: 3 PM



ADULT ENTERTAINMENT ADVISORY COMMITTEE

DECEMBER 20, 2016

WWW.MOUNTVERNONWA.GOV

COMMITTEE GOALS

Goals set out in Ordinance 3698:

1. Determine whether or not adult entertainment uses produce negative secondary impacts.
2. If yes, what are negative secondary impacts?
3. How should these uses be regulated?
4. Demonstrate there exists ample opportunities for these uses to operate within the regulatory scheme proposed.

COMMITTEE GOALS

1. Determine whether or not adult entertainment uses produce negative secondary impacts.

To answer this we first need to define what are negative secondary impacts.

COMMITTEE GOALS

Definition of negative secondary impacts:

Secondary Impacts = Indirect Impacts that occur as a result of an adult entertainment use locating in a neighborhood.

Commonly cited impacts include: increased crime, declining property values, deterioration of areas, creation of an atmosphere for crimes, incompatibility with other uses.

COMMITTEE GOALS

Permanent Ordinance must be evidence based – BUT:

- Can rely on any evidence that is “reasonably believed to be relevant”
- We are not required to come forward with empirical data in support of the rational
- We need not perform our own studies into secondary effects; rather, “reliance on the experiences of other jurisdictions is sufficient to satisfy the City’s minimal burden at the legislative stage”

COMMITTEE GOALS

Starting Point:

The binders with studies from Bellevue, Des Moines, Federal Way, Kelso, Kent, and Olympia have been provided as the starting point for documenting negative secondary impacts.

GOALS

SCHEDULE

1.	Determine whether or not adult entertainment uses produce negative secondary impacts.	December 27 th initial yes/no
2.	What are the negative secondary impacts?	December 27 th preliminary list of impacts
3.	How should these uses be regulated?	Both January meetings
4.	Demonstrate there exists ample opportunities for adult entertainment uses to operate within the parameters selected to regulate this use.	CEDD staff to assist with this
5.	Other?	



February 7th Hearing with the Planning Commission



**SIGN-IN SHEET
ADULT ENTERTAINMENT ADVISORY COMMITTEE
December 27, 2016**

	Name	Address	City/State/Zip	Phone	Email
1.	Ruby Kerkviet	12344 Rainier Dr.	Kennecott, WA 98223	360-768-4583	Ruby-Kerkviet.net
2.	Kathleen Bisogna	407 S. First St	Mount Vernon	360 336.6675	kabisogna@kohmad.com
3.	Kari Matson	911 Windsor Dr	Mount Vernon, WA 98273	360-961-8161	karmatson@gmail.com
4.	LISA ZACHERL	1548 WOODLAND PL.	MT. V, WA 98274	615-406-4806	lisa-zacherl@gmail.com
5.	BELKAL BREWERY	504 E Fairhaven Ave	Burlington 98833	360-708-6856	Belkal@LAWRENCEBREWERY.COM
6.					
7.					
8.					
9.					

ADULT ENTERTAINMENT ADVISORY COMMITTEE AGENDA

4th Meeting

January 10, 2017

5:15 PM – 6:15 PM

City Hall - 910 Cleveland Ave

Downstairs Conference Room

5:15 – 5:25

REVIEW AND APPROVAL OF 12.27.16 MEETING MINUTES

5:25 – 5:45

**REVIEW OF SECONDARY NEGATIVE IMPACTS,
CONTINUATION OF THE LIST OF THESE IMPACTS, AND NEW
STUDIES/DATA**

5:45 – 6:05

SENSITIVE LAND USES

6:05 – 6:15

PUBLIC COMMENTS

Public comment or testimony to be taken should anyone wish to attend and provide such comment or testimony

6:15

ADJOURN

ATTACHED:

- Secondary Negative Impact Data from the City of Everett's Legislative Record
- Secondary Negative Impact Data related to Human Trafficking
- List of Sensitive Land Uses Staff has Previously Identified

City of Mount Vernon
Adult Entertain Advisory Committee Meeting
Minutes from January 10, 2017

The meeting opened at 5:15 pm. Present were Committee members Rudy Kerkvliet, Ryan Hagman, Kathleen Bisagna, Kari Mattson and Liza Zacherl. City staff members included Senior Planner Rebecca Lowell and Administrative Assistant Linda Beacham.

Minutes:

Mr. Hagman moved, second by Mr. Kerkvliet, to approve the minutes from the December 27, 2016 meeting.

Review of Secondary Negative Impacts:

Mrs. Lowell provided additional studies from other cities and agencies. Some studies included human trafficking and prostitution as a secondary negative impact. A brief discussion regarding human trafficking ensued. The Committee reviewed a list of secondary negative impacts which included declining property values, deterioration of nearby areas, incompatible with other uses, and a decline in tourism. Discussion regarding the definitions of commercial and industrial zones, buffer zones and establishing restrictions followed.

Sensitive Land Uses:

A list of sensitive land uses identified by other jurisdictions was provided. Other sensitive uses may include schools, residential zones and uses, and establishments serving alcohol. Committee members requested to review other codes from local municipalities such as Oak Harbor and Burlington.

There being no further business the committee adjourned.

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3 Baltimore strip clubs raided in human trafficking case

FBI, Baltimore police execute raid

Updated: 5:54 PM EDT Jun 26, 2015



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Saliqa Khan

WBALTV.com writer

BALTIMORE —

Three strip clubs in Baltimore were raided in connection with a human trafficking case, local and federal authorities said.



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Baltimore police raid clubs on The Block

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The FBI said the raids are part of a joint investigation involving federal agents, Baltimore police and the Baltimore City State's Attorney's Office. Officials raided clubs on The Block, also known as Baltimore Street, at 9:30 p.m. Thursday, and it lasted well into Friday morning, an FBI representative said.

Police brought search warrants as they entered Club Chez, Joey, Diamond Lounge and Lust.

Officials would not say what exactly led them to conduct the raids, what evidence they found or if any arrests were made. They would only say the investigation is ongoing.

Harry Collins was walking on Baltimore Street when he noticed officers come in and shut down the area.

"I didn't know what to think. I mean, I saw two police cars and there wasn't any traffic. All the buses had to divert onto South Street, so I didn't really know what was going on until I saw a whole bunch of police, so I guessed a raid went on," Collins said.

Kya Mack, a dancer and bartender at one of the strip clubs, said she is not surprised about the raids since police headquarters is just a block away.

"They are right there, and they're always up here checking to see if things like that are happening," Mack said.

Mack said she does not know why police targeted the clubs, but she is aware that sex trafficking is happening in the area.

"I can't say they are doing it at the clubs, but they are doing it on the street," Mack said.

This wasn't the first time this year police raided The Block. In March, [Chez Joey, Lust, two other clubs and some homes were searched](#). At that time, Baltimore police told the 11 News I-Team that they had found possible links between the clubs and criminal acts in other parts of the city. Detectives confiscated drugs, money and ammunition in those raids. Police have not said if there is a link between that raid and this one.

WBAL-TV 11 News I-Team reporter Barry Simms contributed to this report

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Trump fever for many Kurds

Updated: 2:33 PM EST Jan 2, 2017



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WORLD

Canada Stripping Visas for Foreign Strippers

By [Tim Newcomb @tdnewcomb](#) | July 08, 2012

What's this debate over Canada's move to ban foreign strippers, escorts and massage-parlor workers really about? On one side, you have the Adult Entertainment Association, which is upset that the government is stripping away a pool of potential moneymaking workers, whereas on the other side, you have the government, which is saying that cutting back on human trafficking and exploitation is at the heart of the decision.

The Conservative Party government's Immigration Minister, Jason Kenney, announced that starting next month, Canada will no longer renew visas for foreigners working as strippers. Already the government has cut back on how many new visas it grants, down to just 12 in 2011. But it had been continuing to renew previous visas. Not anymore.



Chris Wattie / Reuters

Canada's Immigration Minister, Jason Kenney

(MORE: [Is Thailand Losing the Battle Against Human Trafficking?](#))

Kenney says the decision is part of a larger government effort to crack down

RELATED

[Ottawa Brings Down Curtain on Foreign Strippers](#) *Globe and Mail*

[Canada Bans Foreign Strippers](#) *Newser*

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repeated concerns over the link between escort agencies, brothels and massage parlors and human-trafficking and sexual-exploitation cases.

The move will put hundreds of foreign strippers out of work in Canada and with no valid workers' permit when their yearlong visas come up for renewal. The *Globe and Mail* reports that Kenney, in a speech given in Calgary, said, "The government cannot in good conscience continue to admit temporary foreign workers to work in businesses in sectors where there are reasonable grounds to suspect a risk of sexual exploitation."

There could be anywhere from 500 to 700 women working in Canada on one-year visas. The Adult Entertainment Association says limiting access to the legal trade hurts the industry and creates a labor shortage. Other opponents of the move say it could have an adverse effect by pushing the industry underground and have threatened to hold workshops at universities to recruit foreign students to the industry, a loophole they plan to exploit.

But stories of repeated exploitation and abuse of exotic dancers in the legal industry have become widespread, according to the *Globe and Mail*. Women in Canada on a temporary visa are tied to a single employer, giving that employer quasi-power over the individual.

MORE: [U.S. Still Grappling with Human Trafficking by War-Zone Contractors](#)



Tim Newcomb @tdnewcomb

Tim Newcomb is a journalist based in the Pacific Northwest covering sports design and technology, culture, infrastructure and entertainment. He writes for Sports Illustrated, Popular Mechanics, TIME and more.

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CRIME

Where Strip Clubs Thrive In Portland, So Does Child Sex Trafficking

06/25/2015 07:44 am ET | Updated Jun 26, 2015

3.7k



Andy Campbell

Crime And Weird News Editor, The Huffington Post



ANDY CAMPBELL / THE HUFFINGTON POST

PORTLAND, Ore. — In late August last year, a 15-year-old girl was forced to strip off her clothes and dance naked at Stars Cabaret in nearby Beaverton.

She had been missing since early July, after running away from a drug abuse treatment center. It took less than two months for her pimp, Anthony Curry, to find her, allegedly rape her repeatedly, advertise her body on escort sites like Backpage and force her to dance on stage in several area strip clubs. Each night, Curry would take the money and repay her in shopping trips and a false sense of security, according to court documents.

Curry was arrested in September and convicted earlier this month in neighboring Washington County on seven counts of using a child to display sexually explicit conduct. He faces additional charges of rape and compelling prostitution in Multnomah county, where Portland is located.

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TRENDING

Vesna Vulovic, Survivor Of Mid-Air Plane Explosion And 33,000-Foot Fall, Dies At Age 66

Stars Slam 'Hidden Figures' Singer's Homophobic Sermon

The 12 Types Of Trips You Should Take In Your Lifetime

Mariah Carey's Disastrous New Year's Eve Performance Was Producers' Fault, Reps Say

The Huffington Post doesn't name the victims of sex trafficking, especially minors. But in many ways, this teen had her childhood taken away from her. She struggled through addiction and was bought and sold on the sex market — all before she could legally drive a car. Her innocence is gone.

She shares her story with hundreds of other children who are trafficked in and around Portland each year. Between 2009 and 2013, 469 children were identified as victims of commercial sexual exploitation in the Portland metro area, [according to a study](#) by Portland State University Associate Professor Chris Carey. And those are the victims that were referred to the state Department of Human Services and local nonprofits — the number of cases that go unreported is much, much higher.

"This is just the tip of the iceberg. The problem is real," said Sarah Ohlsen, who works on a county Commercial Sexual Exploitation of Children (CSEC) steering committee dedicated to tackling the area's sex trafficking issues.

Victim advocates say Portland is a hub for such exploitation, due to its abundance of strip clubs and online services — as well as a high demand for sex online. But it's hard to know for certain because nationwide statistics are elusive. Sex trafficking is a transient crime, local police say — pimps and gangs will sell victims from California to Portland and when business is slow, they'll move to Seattle or Vegas. For that reason, it's difficult to compile sex trafficking stats in any given community, or to argue definitively that Portland's issues are worse than, say, Seattle's.

But local agencies were surprised at just how prevalent Portland's problem is. Recent high-profile trafficking cases like Curry's have put child sex trafficking back in the media spotlight.

"I was surprised when I saw the numbers," Carey said. "Is Portland a 'hub' or is it media hype that's bringing these cases to light? It's hard to say. What we do know is that these 469 cases are only the ones that made contact with the state system," he said. "The next step is trying to find a predictive model for this crime."

The Tip Of The Iceberg

In addition to Carey's findings, [the sheriff's office identified 421 suspected sex traffickers between 2009 and late 2014](#) in a Multnomah County annual report. Each one of those suspects, Ohlsen said, is likely trafficking more than one victim. It's hard to catch and convict those suspects because their cases require a victim willing to testify — and pimps and gangs can intimidate witnesses.

Many Americans Don't Believe Trump Can Handle Presidential Duties

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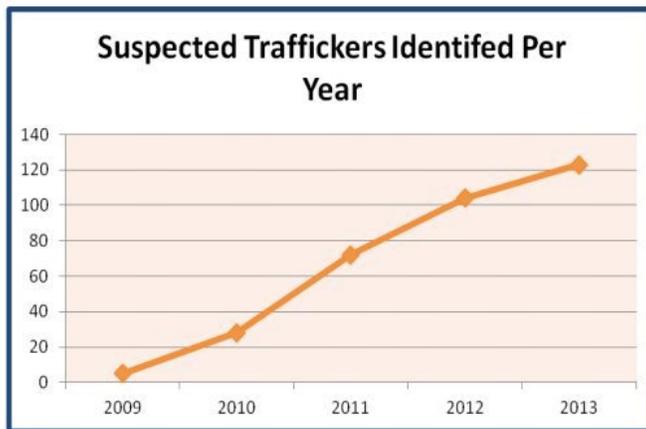


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Police say it's easier to trade humans than drugs.

“You can't intimidate an ounce of crack into not testifying against you — you can intimidate a person,” said Sgt. Chris Lindsey with the Portland Police Sex Trafficking Unit. “You can threaten them; you can threaten their family. I'd put the number at higher than 50 pimps trafficking at any given time.”

The fact that police are finding more traffickers is a sign of progress — it means that more resources are being funneled toward identification and prosecution.

Carey and Ohlsen's studies were unprecedented before local police began to characterize child prostitutes as sex trafficking victims in 2009. It's a step in the right direction: the classification places more of the burden on trafficking suspects than victims. Here are some more of Carey's findings:

- 469 child sex trafficking victims were identified between 2009 and 2013.
- The average age of victims was 15. The youngest was 8.
- 96 percent of the victims were female.
- 40 percent of the victims were white, 27 percent were black and 5 percent were Hispanic.
- Nearly 17 percent of victims had a child of their own when they were identified.
- 62 percent of victims were dealing with addiction issues.

Police say most of the adults working on the streets in Portland started as minors. Most victims are young and vulnerable when they're lured in by pimps and gangs and many become addicts if they weren't already.

The Strip Club Problem

Portland has more clubs per capita than any U.S. city, [according to Willamette Week](#). Each has its own protections in the form of a free-speech clause in the state

constitution that makes strip clubs difficult to regulate. [Article 1, Section 8](#) forbids laws “restraining the free expression of opinion, or restricting the right to speak, write or print freely on any subject whatever.” The constitution allows clubs to pop up almost anywhere, unlike in other states where they can be heavily restricted by zoning regulations. Moreover, dancers are considered “contractors” and not required to have permits that would [make it easier for police to identify underage victims](#). The Oregonian reported.

Curry’s case is an example of how strip clubs can be used for the trafficking of minors. The pimp used Stars Cabaret in Beaverton and other clubs to pimp out his 15-year-old victim, Washington County Prosecutor Kevin Barton said. All Curry had to do was get her a fake ID and she could dance nude for patrons.

Just before Curry’s arrest, Stars Cabaret manager Steven Toth was convicted in an unrelated but similar case. Toth turned a blind eye when a 13-year-old girl was being pimped out in Toth’s club by Victor Moreno-Hernandez. Toth and Moreno-Hernandez were both convicted and Toth was sentenced to 15 years in prison. Their cases prompted a Stars manager to identify Curry’s victim as a minor to police.



From left to right: Anthony Curry, Victor Moreno-Hernandez and Steven Toth. All three were convicted for their role in child trafficking crimes at Stars Cabaret in Beaverton.

Current Stars Cabaret owners — who are currently fighting the [state Liquor Control Commission’s proposal](#) to cancel their liquor license because of the club’s connection to criminal activities — declined to comment.

“Strip clubs serve as fertile ground for the problem to fester,” said Sgt. Charles Lovell of the Portland Police Bureau. “Generally speaking, you have guys there, with money, already looking for sex. If you are a pimp or a sex trafficker, it’s a good place to peddle your services.”

Because the demand to pay for sex is high at strip clubs, it’s still easy to sell sex in public, he said.

“If you’re in a gang and you’re selling drugs to make money, if you get caught with those, you’re in trouble right off the bat — just possessing them is illegal,” Lovell said. “For sex trafficking, if you have a girl working and they’re loyal and not willing to cooperate with the police or tell on you, it’s very difficult to get them in any trouble. The risk is much lower.”

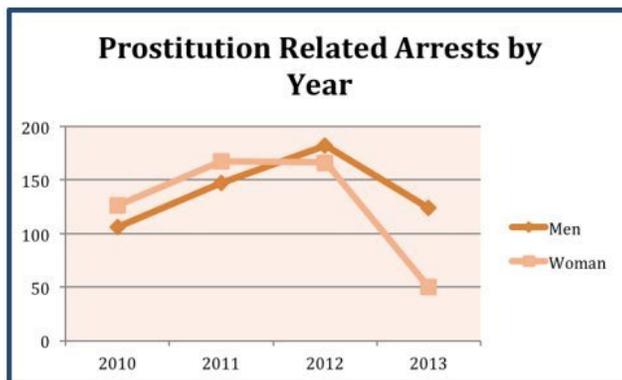
But even more underage sex trafficking occurs online, police say. Hundreds of ads are placed on Backpage.com and other known trafficking sites each week, Ohlsen said.

What’s Being Done

The [CSEC steering committee](#) Ohlsen sits on was created in 2009 to allow educators, sexual assault aid and advocacy groups and law enforcement agencies to coordinate in fighting child sex trafficking. Awareness of the issue has allowed for more state and federal funding to be funneled to victim advocacy and criminal education.

“People think sex trafficking is an international situation. I don’t think people are fully aware that seemingly legal industries can be hotbeds for this type of crime,” Ohlsen said. “We have made a lot of progress in education and awareness and better understanding that we do have a problem.”

Indeed, her [annual report shows](#) more victims and perpetrators are being identified each year. Since the Sex Trafficking Unit’s inception in 2009, more buyers are being arrested while the arrest numbers for women working in the sex trade are falling.



The report states:

It is important to note that the reduction we see in the arrest of women does not indicate that demand is being reduced. It is instead a conscious choice by the officers of the Sex Trafficking Unit to handle these cases differently – meaning women are treated as victims, not criminals. As a collaboration, we understand that victimization does not stop because someone has become a legal adult. The Sex Trafficking Unit officers’ primary goal for the women they

encounter is to offer them support services and treatment options. The goal is to support them in recovery. Because of that, officers spend a lot more resources working with victims.

Prosecutors have taken a victim-centered approach to focus on convicting traffickers and helping victims, Ohlsen said. The state’s Department of Human Services also has a dedicated CSEC unit, started in May 2011, to identify victims and help them. That unit helps about 65 youth at any given time.

Police, meanwhile, are trying to get ahead of the problem by going into schools and educating both potential victims and criminals. Educators are teaching children as young as 13 — the average age that prostitutes start as sex trafficking victims — to look out for signs of trafficking, Lovell said.

“Part of what we have to do as a community is change people’s mind about purchasing sex,” Ohlsen said. “We have to disrupt transactions, identify sex trafficking when it happens and build an environment where it’s not ok to buy.”

More: [Portland](#) [Victor Moreno-hernandez](#) [Anthony Curry](#) [Steven Toth](#) [Portland Strip Clubs](#)

[Suggest a correction](#)

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Chron <http://www.chron.com/news/article/Human-trafficking-drug-activity-at-Treasures-9397283.php>

Human trafficking, drug activity at Treasures strip club, alleged by prosecutors

MICHAEL REED, Regional News Bureau Published 11:18 am, Wednesday, May 16, 2012

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The city of Houston and Harris County joined forces Wednesday to file a lawsuit asking that the strip club, Treasures, be ordered closed for alleged ties to human trafficking and drug activity.

The club, 5647 Westheimer Road, according to the suit, has a history of ignoring drug use on the property and allowing prostitution.

"The evidence of human trafficking makes this place especially abhorrent," said City Attorney David Feldman. "Law enforcement efforts alone have not stopped the habitual criminal activity occurring there."

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"Trafficking," under Texas law, means to "transport, entice, recruit, harbor, provide or otherwise obtain another person by any means."

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Law enforcement officials reported within the past year, at least five gang-related activities, including prostitution and delivery of controlled substances, have taken place at Treasures with more than 30 crimes having occurred on the premises during the last four years.

"Gang activity," under Texas law means organized crime that includes prostitution and the delivery of controlled substances.

Reached Wednesday afternoon, an employee of Treasures said, "Our official comment is 'no comment.'"

The suit, filed in the 164th District Court, alleges the pattern of repeated behavior is evidence that Treasures knowingly permits these acts.

"Treasures allows pimps to traffic their women inside Treasures," the suit alleges. "And through force, fraud or coercion, pimps cause these women to engage in prostitution. Treasures knowingly receives a benefit from participating in the prostitution trafficking venture."

The plaintiffs list 40 prostitution and drug-trafficking incidents handled by police at the club since January 2008. The most recent were for one act of prostitution on May 3 and six acts of prostitution and one act of promoting prostitution on April 26. The most recent cited drug offense was for delivery of a controlled substance on April 21.

When a place allows criminal acts to continue, criminals keep coming back," County Attorney Vince Ryan said. "You must take away the habitat to fix the problem."

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H E A R S T



Prostitution and strip clubs often linked to human trafficking, deputies say

By WSPA News Staff (<http://wbtw.com/author/wspa-news-staff/>)

Published: May 8, 2015, 10:55 am



Prostitution and strip clubs often linked to human trafficking, deputies say (Image 1)

GREENVILLE COUNTY, S.C. – The Greenville County Sheriff says his office began the investigation at Platinum Plus because women are often lured into human trafficking at strip clubs.

“Traffickers lure these girls with the idea of travel money and an easy life,” said the Greenville County Sheriff.

Sheriff Steve Loftis says human trafficking is one of the main reasons they went undercover at Platinum Plus. He says a lot of the time strip clubs go hand-in-hand with trafficking victims.

“Sexually oriented businesses, as my experience as a solicitor and prosecuting a number of human trafficking

cases, personally, do have those types of activities going on.” 13th Circuit Solicitor Walt Wilkins added.

As of now, no human trafficking charges have come out of the investigation. But the sheriff says it’s something they’ve looked into at other businesses before.

“We have received other complaints on various strip clubs throughout the county. None of them come anywhere close to the gross of activity at platinum plus. My deputies will continue to check those other strip clubs.”

Zaina Greene is with SWITCH, an upstate human trafficking outreach. We asked how common it is for the group to find victims that worked at strip clubs and as prostitutes in the Upstate. She says it’s a big problem.

“We see that prostitution and human trafficking are very much correlated and most the time that is what’s going on,” said Greene.

Greene says some of the women they’ve helped have been arrested in those types of situations. She says in the past they have even helped law enforcement identify trafficking victims.

“Because we’ve worked with so many women who are survivors of trafficking, we know what types of language to use and how to talk to them and give them a safe place to find out what’s really going on,” said Greene.

For more information about SWITCH, click [HERE \(http://www.switch4216.org/\)](http://www.switch4216.org/).

According to the National Human Trafficking Resource Center, the crime is commonly reported in street based, sex industries, like prostitution.

This organization says human trafficking has even been reported at restaurants and hotels across the nation. If you think you have information that could help identify a victim, call police or CrimeStoppers.

Top News



New Marlboro County Sheriff plans to curb juvenile crime...

MARLBORO COUNTY, SC (WBTW) – Over the next year, Marlboro...

SENSITIVE USES IDENTIFIED BY MOUNT VERNON TO-DATE

SENSITIVE USE:	DEFINITION OF SENSITIVE USE:
PARKS	A tract of land owned or maintained by a public entity that is designated for and used by the public for active and passive recreational activities.
TRAILS	Linear shaped facilities designed and intended for the public to walk, run, or otherwise travel across that are owned or maintained by the City of Mount Vernon.
CHURCHES	Are buildings or structures, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.
SCHOOLS	Any building or part thereof designed, constructed, or used for formal educational uses that are recognized by the Washington state superintendent of public instruction. This definition includes both public and private schools.
CHILD CARE CENTERS	Are facilities that regularly provide child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.
LIBRARIES	Facilities that include organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.
GAME ARCADES	Are entertainment venues featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

SENSITIVE USES IDENTIFIED BY OTHER JURISDICTIONS

JURISDICTION	SENSITIVE USES DEFINED
EVERETT	Public Library Public playground or park Public or private school and its grounds, from kindergarten to twelfth grade Nursery school or day care center Church, temple, mosque, synagogue, or other place of religious worship Lot located in Residential zones
FEDERAL WAY	Public Park Library Day care center for children, nursery, or pre-school Church or other facility or institution used primarily for religious purposes Public or private elementary or secondary school
KELSO	Existing youth-oriented business or activity defined as: “Youth-oriented business or activity” means a business utilizing a permanent building or facility where children under the age of eighteen years are invited onto the business premises in conjunction with such business activity and at least fifty percent of the business revenue is generated from their patronage.
KENNEWICK	Residential zone Public or private school, or any trade or vocational school that on a regular basis has at least one student under the age of eighteen years Church or other religious facility or institution Park or any public facility or open space zone
KING COUNTY	Certain residential zones Schools Licensed daycare centers Public Parks or trails Community centers Public Libraries Churches
MUKILTEO	Residential zones Public Park Public library Public or private nursery school or preschool Public or private primary or secondary school Daycare Community Youth Center Place of Worship
OAK HARBOR	Schools Religious institutions Parks Certain Residential Zones

SENSITIVE USES IDENTIFIED BY OTHER JURISDICTIONS, CONTINUED

JURISDICTION	SENSITIVE USES DEFINED
THURSTON COUNTY	Property used for public and private schools; Property used for public parks; Property used for public libraries; Property used for state-certified day care; Property used for public community centers; Property used for churches, cemeteries or other religious facilities or institutions; Certain residential zones
VANCOUVER	Public park Child care facility licensed by the State of Washington Preschool Permanent religious institution Public or private elementary, middle, junior high or high school Certain residential districts
SNOHOMISH COUNTY	Private School Preschool Educational Institution Church or other Religious Facility Public or Private Park Youth Oriented Facility Establishment Serving Alcohol by the Drink



SIGN-IN SHEET
ADULT ENTERTAINMENT ADVISORY COMMITTEE
January 10, 2017

	Name	Address	City/State/zip	Phone	Email
1.	RUDY KAZMIET	12344 MARINER DR.	BURBURY, WA 98223	360-708-9585	Rudy.Kazmiest@mtv.com
2.	Ryan Wagner	18626 CASCADE VIEW DR	MT. VERNON WA	360-770-7083	Ryan@Dimensional.net
3.	Kathleen Bidagna	2228 Francis Rd	Mount Vernon, WA	360-336-6675	kbidagna@hotmail.com
4.	Kari Weston	1411 WARDEN DRIVE	MT. Vernon 98273	360-561-8161	Kerweston@gmail.com
5.	LISA ZACHERL	1548 WOODLAND PL.	MT. V 98274	(615) 406-4806	lisazachler@gmail.com
6.					
7.					
8.					
9.					

ADULT ENTERTAINMENT ADVISORY COMMITTEE AGENDA

5th Meeting

January 31, 2017

5:15 PM – 6:15 PM

City Hall - 910 Cleveland Ave

Downstairs Conference Room

5:15 – 5:25

REVIEW AND APPROVAL OF 1.10.16 MEETING MINUTES

5:25 – 5:45

**REVIEW OF SECONDARY NEGATIVE IMPACTS,
CONTINUATION OF THE LIST OF THESE IMPACTS, AND NEW
STUDIES/DATA**

5:45 – 6:05

**DISCUSSION ON FEBRUARY 7, 2017 PLANNING COMMISSION
MEETING**

6:05 – 6:15

PUBLIC COMMENTS

Public comment or testimony to be taken should anyone wish to attend and provide such comment or testimony

6:15

ADJOURN

ATTACHED:

- Meeting Minutes from 1.10.16
- Secondary Negative Impact Data – additional studies and graphic materials
- Other Skagit County jurisdiction's zoning codes

City of Mount Vernon
Adult Entertainment Zoning and Licensing Committee
Minutes from January 31, 2017

The meeting opened at 5:15. Present were Committee members Kathleen Bisagna, Lisa Zacherl, Rudy Kerkvliet, and Ryan Hagman. Senior Planner Rebecca Lowell and Administrative Assistant Linda Beacham from the City were also present. Mount Vernon resident Scott Correa was in attendance. Committee members Kari Matson and Brian Gentry were absent

Minutes:

Mr. Hagman moved, second by Ms. Bisagna, to approve the minutes from January 10, 2017. Motion carried.

Continuation of Review of Secondary Negative Impacts and New Studies:

The Committee discussed additional secondary negative impacts. Declining property values, loss of tourism and customers to other businesses; risks to public health from patron behavior were among the negative impacts discussed.

There was discussion on the areas that would be suitable for adult entertainment businesses. Mrs. Lowell will provide maps for viewing by the Committee. The goal is to present the committee's final draft to the Planning Commission in March.

Public Comment:

Scott Correa, Mount Vernon resident, stated the City Council uses south Mount Vernon to dump unattractive uses such as marijuana, bikini barista and County jail. Mrs. Lowell stated the jail site was chosen by the County. Several committee members responded they have a vested interest as they have a business and family that lives or attends school in south Mount Vernon. Mr. Correa offered to assist the committee if they need additional help.

There being no further business the meeting adjourned.

ADULT ENTERTAINMENT ADVISORY COMMITTEE
NEGATIVE SECONDARY IMPACTS ANALYSIS
DRAFT WORK PRODUCT – PROVIDED AT 1.31.17 MEETING

INTRODUCTION:

Negative secondary impacts are defined as indirect negative impacts that occur as a result of an adult entertainment use locating in a geographic area.

Research compiled to-date shows that numerous communities both in Washington State and across the Country have experienced negative secondary impacts from adult uses. Evaluating experiences from other jurisdictions that have experience with regulating adult uses is important because Mount Vernon is able to learn from these experiences and adopt regulations to mitigate the negative impacts others have endured.

A summary of some of the more significant negative impacts from existing adult entertainment uses in other jurisdictions are briefly summarized below.

ADULT ENTERTAINMENT ADVISORY COMMITTEE
 NEGATIVE SECONDARY IMPACTS ANALYSIS
DRAFT WORK PRODUCT – PROVIDED AT 1.31.17 MEETING

NEGATIVE SECONDARY IMPACTS	DOCUMENTATION/EVIDENCE:
1A. INCREASED INCIDENCE OF CRIME	<p>“...between 1969 and 1972, the number of adult theaters in the City of Detroit increased from 2 to 18 and the number of adult bookstores rose from 2 to 21. During the same period, the incidence of crime in and around these establishments increased dramatically” [City of Bellevue. (1987). <i>A Study on the Need to Regulate the Location of Adult Entertainment Uses, Part 1</i>. Bellevue, WA. Retrieved from http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/b44adult.pdf]</p>
1B. CREATION OF AN ATMOSPHERE FOR CRIMES	<p>“Similar to Detroit, the City of Cleveland experienced a rapid increase of adult uses during the early 1970’s...In 1976, 26 adult businesses (8 theaters and 18 bookstores) were located in Cleveland’s 204 census tracts. The same year, the two census tracts having the highest rates of crime had a total of 8 pornography outlets. Cleveland Police statistics showed that during 1976 there was an average of 20.5 robberies per census tract. In the 15 census tracts which contained adult businesses, the average was nearly double at 40.5 robberies. A single census tract which contained 5 pornography outlets and a population of only 730 persons had a total of 136 robberies. The statistics for rape echoed the same pattern as for robbery. The citywide average of rape in Cleveland in 1976 was 2.4 per census tract. In the 15 census tracts containing pornography outlets, the rate was double that” [City of Bellevue. (1987). <i>A Study on the Need to Regulate the Location of Adult Entertainment Uses, Part 1</i>. Bellevue, WA. Retrieved from http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/b44adult.pdf]</p> <p>“The City of Kent, Washington had similar experiences with the Roadside Inn Tavern. Prior to its forced closing, the Roadside Inn offered topless dancing and table dancing in conjunction with its selling of alcoholic beverages. Kent police investigations conducted in the summer of 1981 revealed a very high incidence of criminal activity at the Roadside, related primarily to six crimes (prostitution) and drug related offenses” [City of Bellevue. (1987). <i>A Study on the Need to Regulate the Location of Adult Entertainment Uses, Part 1</i>. Bellevue, WA. Retrieved from http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/b44adult.pdf]</p> <p>“Bothell’s experiences with Mama Hoopah’s in 1982 demonstrated similar association between the use (an adult dance hall) and the occurrence of crime. Research by the Bothell Police Department also demonstrated the regional attraction that such an establishment can have. In one investigation of the 321 vehicles checked, 8 were registered in Bothell with most of the remainder from the Puget sound region, though others had out of state registration. This is potentially significant in that nonresidents of an area may be less inhibited in their personal behavior when away from their community” [City of Bellevue. (1987). <i>A Study on the Need to Regulate the Location of Adult Entertainment Uses, Part 1</i>. Bellevue, WA. Retrieved from http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/b44adult.pdf]</p> <p>“...testimony by individuals involved in the North End Cinema (located in North Seattle) indicated that the property owners sited...increased crime, and other factors in their concern about the nuisance element of this theater” [Thorpe, R.W. (1984). <i>Des Moines Adult Use Study</i>. Retrieved from http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/d44adult.pdf]</p> <p>“Discussions with the City Planner reviewed the history of their attempts to remove an adult theater use from downtown Aberdeen. The City Planner cited increased instance of crime” [Thorpe, R.W. (1984). <i>Des Moines Adult Use Study</i>. Retrieved from http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/d44adult.pdf]</p>

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“Discussions with members of the City Planning Staff (City of Redmond) indicate that problems similar to the North End Cinema were cited related to crime, late night disturbances...[Thorpe, R.W. (1984). *Des Moines Adult Use Study*. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/d44adult.pdf>]

“An analysis of crime rates was conducted by comparing areas with adult businesses (study areas) to areas without adult businesses (control areas). Both control and study areas are circular in shape with a 1,000 foot radius, contain similar land uses, and are in close proximity to one another. Four study areas were defined: two with single businesses and two with more than one business. Within the study areas, six-related crimes were found to be from two to nearly five times the city-wide average. Also, sex-related crime rates were found to be 66% higher in study areas with two adult businesses compared to study areas with only one business” [City of Austin (1986). *Report on Adult Oriented Businesses in Austin*. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/o46adult.pdf>]

“The City of Federal Way has experienced criminal activity in connection with the operation of Déjà Vu, an adult entertainment facility located at 31656 Pacific Highway South, Federal Way, Washington 98003. Criminal activity has also occurred in connection with the operation of X-Otic Tan, an adult entertainment facility located at 29500 Pacific Highway S., Federal Way, Washington” [Lindell, L.K. (1995). *Adult Entertainment Code Amendments*. Federal Way, WA. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/f4adult.pdf>]

“Déjà Vu, Tukwila...provides stage dancing, table and couch dances. Tukwila police investigations conducted in the summer of 1994 resulted in over 500 criminal convictions relating primarily to six crimes such as prostitution. The 500 convictions includes 70 convictions for prostitution” [Lindell, L.K. (1995). *Adult Entertainment Code Amendments*. Federal Way, WA. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/f4adult.pdf>]

“In April, 1978, the Department of Regional Planning of the County of Los Angeles published a study entitled Adult Entertainment Study and Proposed Zoning Ordinance Amendment. In the study, law enforcement officers were surveyed. Responses from the surveys indicated that areas with a concentration of adult businesses have a higher incidence of public intoxication, theft, assault, disturbing the peace, and sex-related vice. Respondents indicated that nude bars, modeling studios, and massage parlors cause the most individual problems” [City of Austin (1986). *Report on Adult Oriented Businesses in Austin*. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/o46adult.pdf>]

“In February, 1984, the Division of Planning in Indianapolis published a report entitled Adult Entertainment Businesses in Indianapolis: An Analysis. This report contained the results of an evaluation of the impact of adult business upon the surrounding area in terms of crime rates and real estates values...The Indianapolis study assessed the impact of adult entertainment businesses on crime rates by researching six areas containing adult businesses and six similar areas containing no adult businesses...The evaluation found that for both the Study and Control

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Areas, the rate of major crimes was higher than the corresponding rate for the Indianapolis Police District as a whole. The average annual rate for major crimes in the Study Areas was 23 percent higher than the corresponding rate in the Control Areas. Comparison of the rates for sex-related crimes indicated a considerably larger difference between the Study and Control Areas. The average annual rate for sex-related crimes in the Study Area was 77 percent higher than the corresponding rate in the Control Areas. The study also found a strong correlation between the crime frequency and the residential character of the Study areas. Crime rates were 56 percent higher in predominantly residential areas than in predominantly commercial areas. The study found a more acute difference regarding sex-related crimes. Sex-related crimes occurred four times more frequently in predominantly residential areas than in areas that were substantially commercial in nature” [City of Austin (1986). *Report on Adult Oriented Businesses in Austin*. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/o46adult.pdf>]

“The Minneapolis study found a much stronger relationship between sexually oriented businesses and crime rates. A crime index was constructed including robbery, burglary, rape and assault. The rate of crime in areas near sexually oriented businesses was then compared to crime rates in other areas. The study drew the following conclusions:

- (1) The effects of sexually oriented businesses on the crime rate index is positive and significant regardless of which control variable is used.
- (2) Sexually oriented businesses continue to be associated with higher crime rates, even when the control variables’ impacts are considered simultaneously.

According to the statistical analysis conducted in the Minneapolis study, the addition of one sexually oriented business to a census tract area will cause an increase in the overall crime rate index in that area by 9.15 crimes per thousand people per year even if all other social factors remain unchanged”. [Minnesota Attorney General (1989). *Report of the Attorney General’s Working Group on the Regulation of Sexually Oriented Businesses*, pg. 383-384]

The Planning Department of Phoenix, Arizona published a study in 1979 entitled “Relation of Criminal Activity and Adult Businesses”. This study showed that arrests for sexual crime and the location of sexually oriented businesses were directly related. The study compared three areas with sexually oriented businesses with three control areas which had similar and demographic and land use characteristics but no sexually oriented establishments. The study found that,

- (1) Property crimes were 43 percent higher in those areas which contained a sexually oriented businesses.

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- (2) The sex crime rate was 500 percent higher in those areas with sexually oriented businesses.
- (3) The study area with the greatest concentration of sexually oriented businesses has a sex crime rate over 11 times as large as a similar area having no sexually oriented businesses”.

[Minnesota Attorney General (1989). *Report of the Attorney General’s Working Group on the Regulation of Sexually Oriented Businesses*, pg. 383-384]

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NEGATIVE SECONDARY IMPACTS	DOCUMENTATION/EVIDENCE:
<p>2. DECLINING PROPERTY VALUES</p>	<p>“...the majority of appraisers agreed that the impact of adult uses on residential property values is probably negative although no general rule can be applied. One appraiser estimated that the adverse effect could be as much as one to three percent of the property’s total value” [City of Bellevue. (1987). <i>A Study on the Need to Regulate the Location of Adult Entertainment Uses, Part 1</i>. Bellevue, WA. Retrieved from http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/b44adult.pdf]</p> <p>“As a general rule, most appraisers felt that in cases where an adult use located in a commercial environment, little or no adverse impact would be expected either to surrounding businesses or property values” [City of Bellevue. (1987). <i>A Study on the Need to Regulate the Location of Adult Entertainment Uses, Part 1</i>. Bellevue, WA. Retrieved from http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/b44adult.pdf]</p> <p>“The appraisers perception of various communities of which they are located, (Renton, Bremerton, Seattle, Redmond) indicates that they feel that this type of use (referring to adult uses) when included next door to other healthy businesses may result in a reduction of property values and/or rental income stream. Most appraisers felt that there is a negative impact on residential property values as well as an impact on business property values” [Thorpe, R.W. (1984). <i>Des Moines Adult Use Study</i>. Retrieved from http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/d44adult.pdf]</p> <p>In surveys of professional real estate appraisers (described in the Austin study) “78%...felt that residential property values would decrease if located within one block of an adult business...80% of those surveyed felt residential property values would decrease if located within a block of an adult business” [City of Austin (1986). <i>Report on Adult Oriented Businesses in Austin</i>. Retrieved from http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/o46adult.pdf]</p> <p>“...studies performed in Kent, Washington; Bellevue, Washington; Austin, Texas; Minnesota; and Indianapolis, Indiana, of the secondary impacts of adult entertainment uses. Many of these studies conclude that adult uses result in a reduction in property values of surrounding properties” [Lindell, L.K. (1995). <i>Adult Entertainment Code Amendments</i>. Federal Way, WA. Retrieved from http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/f4adult.pdf]</p> <p>“The data and analyses reported in this document make a clear, compelling statement about the secondary consequences of the adult entertainment businesses along Garden Grove Boulevard. In terms of property values alone, the survey of real estate professionals leads to the unambiguous conclusion that the mere presence of these businesses depresses residential and commercial property values. While the effect on commercial property values is problematic, the effect on residential property values argues for strict regulations governing the distance of adult businesses from residential neighborhoods. In commercial zones, moreover, the consistent opinions of real estate professionals suggest that high density [referring to adult entertainment businesses] also depresses commercial property values. This argues for strict regulations governing the distances between adult businesses”. [McCleary, Richard and Meeker, James (1991) <i>Final Report to the City of Garden Grove: The Relationship Between Crime and Adult Business Operations on Garden Grove Boulevard</i>. Pg. 47]</p>

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**NEGATIVE
SECONDARY
IMPACTS**

DOCUMENTATION/EVIDENCE:

**3. DETERIORATION
OF AREAS**

“Seattle: First Avenue and 3rd Avenue & Union Sites = Adult Cinemas...The general observation of these buildings is that these buildings and their uses create deferred maintenance, functional obsolescence and some general decline in upkeep and visual appearance of the existing buildings and adjacent uses” [Thorpe, R.W. (1984). *Des Moines Adult Use Study*. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/d44adult.pdf>]

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NEGATIVE SECONDARY IMPACTS	DOCUMENTATION/EVIDENCE:
<p>4A. INCOMPATIBILITY WITH OTHER USES</p>	<p>“Based on the experience of certain Puget Sound communities, it has been demonstrated in the past that adult uses are incompatible with residential, educational, and religious uses. This fact was best demonstrated in the Greenwood area of Seattle in the mid-1970’s when a local theater began showing X-rated films. Residents of Greenwood complained loudly about increased traffic, undesirable patrons, lowered property values and other adverse impacts. Residents argued that theirs was an area of residences, churches, schools, and social gathering places, a closely-knit neighborhood unaccustomed to adult theaters and the disruptive impacts associated with such uses” [City of Bellevue. (1987). <i>A Study on the Need to Regulate the Location of Adult Entertainment Uses, Part 1</i>. Bellevue, WA. Retrieved from http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/b44adult.pdf]</p>
<p>4B. NEGATIVE LAND USE IMPACTS</p>	<p>“...a “topless” tavern disrupted the quality of life for some Kent residents. The incident involved the Roadside Inn Tavern – a tavern offering topless table dancing – and the residents of an adjacent mobile home court. In July 1981, the residents of Bonel Mobile Home Court submitted a petition requesting the Kent City Council to revoke the business license of the Roadside. At the public hearing on the license revocation, residents complained about the Roadside’s excessive noise and litter impacts which spilled over onto adjacent residential properties” [City of Bellevue. (1987). <i>A Study on the Need to Regulate the Location of Adult Entertainment Uses, Part 1</i>. Bellevue, WA. Retrieved from http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/b44adult.pdf]</p>
<p>4C. NEGATIVE IMPACTS ON QUALITY OF LIFE</p>	<p>Land use impacts attributed to adult uses, “There appears to be a definite impact on adjacent land uses, the turnover of tenants, deferred maintenance, functional obsolescence, maintenance of access areas such as streets and parking lot surrounding these (adult) uses. [Thorpe, R.W. (1984). <i>Des Moines Adult Use Study</i>. Retrieved from http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/d44adult.pdf]</p>
<p>4D. DECLINING TOURISM</p>	<p>“...studies performed in Kent, Washington; Bellevue, Washington; Austin, Texas; Minnesota; and Indianapolis, Indiana, of the secondary impacts of adult entertainment uses...These studies also conclude that adult uses are incompatible with residential, educational and religious uses” [Lindell, L.K. (1995). <i>Adult Entertainment Code Amendments</i>. Federal Way, WA. Retrieved from http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/f4adult.pdf]</p>
	<p>The Minnesota Attorney General’s “Working Group heard testimony that a concentration of sexually oriented businesses has serious impacts upon the surrounding neighborhood. The Working Group heard that pornographic materials are left in adjacent lots. One person reported to the police that he had found 50 pieces of pornographic material in a church parking lot near a sexually oriented businesses. Neighbors report dining used condoms on their lawn and sidewalks and that sex acts with prostitutes occur on streets and alleys in plain view of families and children...Prostitution also results in harassment of neighborhood residents. Young girls on their way to school or young women on their way to work are often propositioned by johns. The Flick theater caters to homosexual trade, and male prostitution has been noted in the area”. [Minnesota Attorney General (1989). <i>Report of the Attorney General’s Working Group on the Regulation of Sexually Oriented Businesses</i>, pg. 389]</p> <p>“Concentrations of [these] adult-only activities have detrimental effects upon surrounding residential and commercial activities. These effects are caused by (a) the noise, lighting and traffic generated by the pedestrian and vehicular traffic frequenting these businesses whose</p>

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primary hours of operation are from late evening to late night, (b) the increased opportunity for “street crimes” in areas with high pedestrian traffic, and (c) the tendency to avoid areas where adult businesses (especially pornographic) are established. This avoidance and other factors can lead to the deterioration of surrounding commercial and residential activities”. [City of Amarillo, TX Planning Department (1977) *A Report on Zoning and Other Methods of Regulating Adult Entertainment in Amarillo*. pg. 15].

“Many residents of the communities in which adult entertainment establishments are located have complained about the impacts from these establishments. These impacts include: exposure of children and teenagers to graphic sexual images, increased crime, diminishing property values, adverse effects upon the climate for other types of commercial activities and overall negative influences upon community character. Sexually explicit business signs or displays visible from the public street are particularly offensive” (New York Department of City Planning (1994) *Adult Entertainment Study*, pg 61]

ADULT ENTERTAINMENT ADVISORY COMMITTEE
 NEGATIVE SECONDARY IMPACTS ANALYSIS
DRAFT WORK PRODUCT – PROVIDED AT 1.31.17 MEETING

NEGATIVE SECONDARY IMPACTS	DOCUMENTATION/EVIDENCE:
<p>5. HUMAN TRAFFICKING ASSOCIATIONS</p>	<p>In 2012 the Canadian government moved to ban foreign strippers, escorts and massage-parlor workers “saying that cutting back on human trafficking and exploitation is at the heart of the decision”. Jason Kenney (the Conservative Party Government’s then Immigration Minister) “says the decision is part of a larger government effort to crack down on human trafficking, as the Royal Canadian Mounted Police has expressed repeated concerns over the link between escort agencies, brothels and massage parlors and human-trafficking and sexual-exploitation cases” [Newcomb, T. (2012, July 8). Canada Stripping Visas for Foreign Strippers. Time.com. Retrieved January 1, 2017, from http://newsfeed.time.com/2012/07/08/canada-stripping-visas-for-foreign-strippers/]</p> <p>May 2012, the City of Houston, TX and Harris County file a lawsuit asking that a strip club named Treasures, be ordered to be closed for alleged ties to human trafficking and drug activity. [Reed, M. (2012, May 16). Human trafficking, drug activity at Treasures strip club, alleged by prosecutors. Chron.com. Retrieved January 1, 2017, from http://www.chron.com/news/article/Human-trafficking-drug-activity-at-Treasures-9397283.php]</p> <p>May 2015, Greenville County, South Carolina, Sheriff states that his office began an investigation of the Platinum Plus strip club because women are lured into human trafficking. “Traffickers lure these girls with the idea of travel money and an easy life,” said the Greenville County Sheriff. [WSPA New Staff. (2015, May 8). Prostitution and strip clubs often linked to human trafficking, deputies say. WBTW.com. Retrieved January 1, 2017, from http://wbtw.com/2015/05/08/prostitution-and-strip-clubs-often-linked-to-human-trafficking-deputies-say/]</p> <p>June 2015, three strip clubs in Baltimore were raided in connection with a human trafficking case, Baltimore Police and FBI state [Khan, S. (2015, June 26). 3 Baltimore strip clubs raided in human trafficking case. WBALTV.com. Retrieved January 1 2017, from http://www.wbalTV.com/article/3-baltimore-strip-clubs-raided-in-human-trafficking-case/7094376]</p> <p>June 2015, Portland, Oregon. “Victim advocates say Portland is a hub for such exploitation (referring to sex trafficking), due to its abundance of strip clubs and online services...Sex trafficking is a transient crime, local police say – pumps and gangs will sell victims from California to Portland and when business is slow, they’ll move to Seattle or Vegas...”Strip clubs serve as fertile ground for the problem to fester”, said Sgt. Charles Lovell of the Portland Police Bureau. “Generally speaking, you have guys there, with money, already looking for sex. If you are a pimp or a sex trafficker, it’s a good place to peddle your services.” [Campbell, A. (2015, June 26). Where Strip Clubs Thrive In Portland, So Does Child Sex Trafficking. Huffingtonpost.com. Retrieved January 1, 2017, from http://www.huffingtonpost.com/2015/06/25/child-sex-trafficking-strip-clubs-portland_n_7650778.html]</p>

CITY OF ANACORTES MUNICIPAL CODE

17.10.200 - Adult concessions (entertainment and retail).

- A. Adult entertainment and retail taken together as "concession," and defined in Section 5.35.030, are recognized as being uses that may prove detrimental in certain circumstances to its surrounding neighborhoods and thereby requiring the following regulations.
- B. No adult concession shall be located:
 - 1. Within one hundred feet of any public or private school, or any trade or vocational school that on a regular basis has at least one student under the age of eighteen years;
 - 2. Within one hundred feet of any church or other religious facility or institution;
 - 3. Within one hundred feet of any park or any public facility or open space zone;
 - 4. Within three hundred feet of another adult concession;
 - 5. Within one hundred feet of any residential zone, for adult entertainment; and
 - 6. Within thirty feet of any residential zone, for adult retail.
- C. The distance provided herein shall be measured by following a straight line, without regard to intervening buildings, from the nearest point on the property line or the zoning district boundary to the specified concession.
- D. No person owning, operating or managing an adult concession or their employee or agent shall invite, allow, or permit any person under the age of eighteen years to enter or remain on the premises of any concession.
- E. On the exterior of any concession there shall be no window, marquee, or other display of any manner describing, identifying, depicting or portraying "specified anatomical areas", or "specified sexual activities" (See AMC 5.35.030).
- F. Violation of the use provisions of this section is declared to be a public nuisance per se, which shall be abated by a civil action only and not by criminal prosecution.
- G. Concession establishments may be identified with signs on the exterior of the establishment in accordance with Chapter 17.40. All signs shall comply with subsection (E) hereof. No advertising, text, pictures or depictions shall be permitted anywhere in the windows, on the site, sidewalk or street (tent "A" board signs), store-front, marquee, or anywhere else other than on the approved signage. Terms such as "sale," etc., and other such advertising, as associated with mainstream advertising, will be accepted, subject to the interpretation of the planning director or her/his designee.
- H. There shall be no more than one concession business operating in the same building, structure or portion thereof.
- I. Nothing in this section is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building or use which violates any ordinance or statute of the city of Anacortes, Skagit County, state of Washington, or the United States.

(Ord. No. 2902, § 4, 5-6-2013)

(1 hits)

Chapter 17.42 M-1 INDUSTRIAL DISTRICT¹

Sections:

- 17.42.010 Intent.
- 17.42.020 Permitted primary uses.
- 17.42.025 Accessory uses.
- 17.42.030 Uses requiring administrative permits.
- 17.42.040 Uses requiring a conditional use permit.
- 17.42.050 Development standards.
- 17.42.060 Supplemental development standards.

17.42.010 Intent.

An M-1 district shall provide a use district for manufacturing, warehousing and distribution operation which require little or no retail contact with the general public.

The industrial zone is intended to provide for general manufacturing and processing and grouping of industrial enterprises which possess common or similar characteristics and performance standards involving manufacturing, assembling, fabrication and processing, bulk handling of products, large amounts of storage and warehousing, outdoor storage, processing and other related uses.

While other uses may be sited within this zone, permits for such uses should not be issued if such uses will discourage use of adjacent sites for industry, interrupt the continuity of industrial sites, or produce traffic in conflict with the industrial uses. (Ord. 1206 § 3, 1992).

17.42.020 Permitted primary uses.

Hereafter all buildings, structures, or parcels of land shall only be used for the following, unless otherwise provided for in this title:

- A. Basic wood processing including sawmills, planing mills, veneering and laminating of wood;
- B. Building movers;
- C. Caretaker's quarters, not more than one per establishment;
- D. Club, topless; provided, that it shall be located a minimum of 1,000 feet from any residential zone, 1,000 feet from any school, public or private, 1,000 feet from any church, and 1,000 feet from any park, measured along the right-of-way;
- E. Cold storage plants;
- F. Commercial laundries;
- G. Contractor trade services including storage yards;

H. Enameling, galvanizing and electroplating;

I. Equipment repair and storage;

J. Heavy equipment and truck repair;

K. Household movers and storage;

L. Janitorial services;

M. Job training and vocational education;

N. Lumber yards;

O. Manufacturing, assembling and packaging of articles, products, or merchandise from previously prepared natural or synthetic materials, including but not limited to bristles, canvas, cellophane, and similar synthetics, chalk, clays (pulverized only, with gas or electric kilns), cloth, cork, feathers, felt, fiber, fur, glass (including glass finishing), graphite, hair, horn, leather, paper, paraffin, plastic and resins, precious or semi-precious metals or stones, putty, pumice, rubber, shell, textiles, tobacco, wire, wood, wool, and yarn;

P. Manufacturing establishments engaged in electronic, automotive, aerospace, airframe, or related manufacturing and assembly activities, including precision machine shops producing parts, accessories, assemblies, systems, engine, major components, and whole electronic or electrical devices, automobiles, aircraft, aerospace, or underwater vehicles, but specifically excluding explosive fuels and propellants;

Q. Manufacturing, processing, assembling and packaging of precision components and products, including precision machine shops for products such as radio and television equipment, business machine equipment, home appliances, scientific, optical, medical, dental, and drafting instruments, photographic and optical goods, phonograph records and pre-recorded audio-visual tape, measurement and control devices, sound equipment and supplies, personal accessories, and products of similar character;

R. Manufacturing, processing, treating, assembling and packaging of articles, products or merchandise from previously prepared ferrous, nonferrous or alloyed metals;

S. Manufacturing, processing, blending and packaging of products such as the following:

1. Soaps, detergents and other basic cleaning and cleansing materials;
2. Mineral products such as abrasives, asbestos, chalk, pumice, etc.;
3. Clay and cement products such as brick, tile, pipe, etc.;

T. Manufacturing, processing, blending and packaging of the following:

1. Drugs, pharmaceuticals, toiletries, and cosmetics;

2. Food and kindred products, such as confectionery products, chocolate, cereal breakfast food, bakery products, paste products, fruits and vegetables, beverages, prepared food specialties (such as coffee, dehydrated and instant food, extracts, spices and dressings) and similar products;

3. Dairy products and by-products such as milk, cream, cheese and butter, including the processing and bottling of fluid milk, and cream and wholesale distribution;

U. Manufacturing, assembling, packaging and development of computer equipment and software, and related products;

V. Medical marijuana/cannabis collective gardens and recreational marijuana processors, producers and retail stores. All such uses shall meet the following development standards:

1. The definitions set forth in chapter 17.06 BMC shall apply.

2. Medical marijuana/cannabis collective gardens and recreational marijuana processors, producers and retail stores shall only be permitted when licensed by the state of Washington.

3. Location.

a. No more than one medical or recreational marijuana use or garden shall be located on a single parcel or in a single structure.

b. Shall be located fully within a permanent structure designed to comply with the city building code and constructed under a building permit from the city regardless of the size or configuration of the structure.

c. Shall not be located in a mobile structure.

d. Shall not be located within 1,000 feet of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or arcade, single-family residential zone or another medical or recreational marijuana use. The measurement shall be taken in a straight line from property boundary to property boundary.

e. No production, processing or delivery of marijuana may be visible to the public nor may it be visible through windows.

f. All requirements of state laws must be met.

g. All fertilizers, chemicals, gases and hazardous materials shall be handled in compliance with all applicable local, state and federal regulations. No fertilizers, chemicals, gases or hazardous materials shall be allowed to enter a sanitary sewer or storm sewer system nor be released into the atmosphere outside of the structure where the garden is located.

h. No odors shall be allowed to migrate beyond the interior portion of the structure where the garden or processing facility is located;

W. Motion picture theater, adult; provided, that it shall be located a minimum of 1,000 feet from any residential zone, 1,000 feet from any school, public or private, 1,000 feet from any church, and 1,000 feet from any park, measured along the right-of-way;

X. Motor freight terminals and transportation;

Y. Offices related to an on-site permitted use or larger than 50,000 square feet of floor area;

Z. On-site day care serving a specified permitted use;

AA. On-site recreational facilities serving a specified permitted use;

BB. Outside storage yards;

CC. Printing, publishing, and allied industries including such processes as lithography, etching, and engraving, binding, blueprinting, photocopying, and film processing;

DD. Research, development and testing of permitted use;

EE. Residences, existing single-family and duplex;

FF. Restaurants, limited to serving a permitted use on the same site;

GG. Retail and wholesale trade of products manufactured, processed or assembled on site;

HH. Warehousing and distribution facilities, to include wholesale trade not open to general public;

II. Other similar uses and accessory uses and buildings appurtenant to a principal use which the planning director finds compatible with the principal permitted uses described in this chapter and consistent with the purpose and intent of the M-1 zone;

JJ. Uses permitted in the C-1 general commercial and C-2 heavy commercial districts may be permitted on a portion of the site by the planning commission, in accordance with BMC 17.68.150. This review may be conducted only if there is a recommendation for approval by the planning director, in consultation with the public works director, fire marshal, building official and police chief, based on the following criteria:

1. The lot is deep or irregular and C-1 uses may not be appropriate on a portion of the site.
2. The site abuts a more intense use and a transitional use is a better fit with the character of the area. (Ord. 1788 § 6, 2013; Ord. 1784 § 1, 2013; Ord. 1396 § 52, 1999; Ord. 1284 § 2, 1995; Ord. 1260 § 15, 1994; Ord. 1206 § 3, 1992).

17.42.025 Accessory uses.

A. Telecommunication macro facilities, subject to the following requirements:

1. Macro facilities may be located on buildings and structures provided that the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.

2. The macro facility shall be exempt from review by the design review board if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.

3. The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.

4. Macro facilities shall comply with the height limitation specified for all zones except as follows: Omnidirectional antennas may exceed the height limitation by 15 feet, or in the case of nonconforming structures the antennas may extend 15 feet above the existing structure. Panel antennas may exceed the height limitation if affixed to the side of an existing building and architecturally blends in with the building. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

B. Existing monopole I and lattice towers may be extended in height to maximum of 160 feet in height without complying with setback requirements. (Ord. 1396 § 53, 1999).

17.42.030 Uses requiring administrative permits.

The following uses and activities may be permitted by means of an administrative permit, issued in accord with BMC 17.68.150, if the development plan of such use is found by the planning commission to be consistent with the purpose of the zone and the related policies of the comprehensive plan:

- A. Auction houses, excluding animals;
- B. Automobile wrecking yard;
- C. Banks and financial institutions;
- D. Car wash;
- E. Day care, including family day care homes and child day care centers as defined by DSHS, preschools or nursery schools;
- F. Eating and drinking establishments other than restaurants serving a permitted use on the same site;
- G. Equipment rental and leasing and sales;
- H. Health and physical fitness clubs;
- I. Mini storage warehouses;
- J. Offices, including corporate headquarters;
- K. Personal and household retail sales and service;
- L. Reupholstery and furniture repair;
- M. Secretarial services;

N. Small appliance repair;

O. Towing service;

P. Vehicle repair, major and minor. (Ord. 1396 § 54, 1999; Ord. 1260 § 16, 1994; Ord. 1206 § 3, 1992).

17.42.040 Uses requiring a conditional use permit.

The following uses may be permitted when a conditional use permit has been issued pursuant to the provisions of BMC 17.68.130:

A. Animal auction houses;

B. Animal and food processing including the following:

1. Tanning and dressing of hides,
2. Curing, canning, freezing, canning and processing of meat and seafood,
3. Pickling and brine curing;

C. Bulk storage or processing of oil, gas, petroleum, butane, liquid petroleum, gas and similar products, unless clearly incidental and secondary to support a principally permitted use;

D. Concrete mixing and batching plants, including ready-mix concrete facilities;

E. Drive-in theaters;

F. Government facilities;

G. Motels;

H. Radio and television transmitting towers;

I. Rock crushing plants;

J. Sales and rental of motorized vehicles;

K. Transmission towers on Burlington Hill where co-location exists subject to the following additional criteria:

1. Antennas may not extend more than 15 feet above their supporting structure, monopole, lattice tower, building or other structure;
2. Site location and development shall preserve the pre-existing character of the surrounding buildings and land uses and the zone district to the extent consistent with the function of the communications equipment. Wireless communication towers shall be integrated through location and design to blend in with the existing characteristics of the site to the extent practicable. Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area;

3. Accessory equipment facilities used to house wireless communications equipment should be located within buildings or placed underground when possible. When they cannot be located in buildings, equipment shelters or cabinets shall be screened and landscaped in conformance with chapter 20.12 BMC;

4. No equipment shall be operated so as to produce noise in levels above 45 dB as measured from the nearest property line on which the attached wireless communication facility is located;

5. New transmission towers and additional height on existing towers shall comply with performance standards for industrial uses adjacent to residential zones, BMC 17.48.110, 17.48.120 and 17.48.130);

L. Utility substations, unless clearly incidental and part of a permitted use;

M. Warehouse sales, open to the public, must have a minimum of 50,000 square feet of floor space. (Ord. 1396 § 55, 1999; Ord. 1206 § 3, 1992).

17.42.050 Development standards.

A. Minimum lot area: none required.

B. Minimum lot width: none required.

C. Minimum lot depth: none required.

D. Maximum lot coverage: none required.

E. Maximum building height: 45 feet. For those structures that exceed 45 feet, one additional foot of setback shall be provided for each foot the structure exceeds 45 feet.

F. Minimum yard setbacks:

1. Front: 0 feet;

2. Side, interior: none required;

3. Side, street: 0 feet;

4. Rear: none required.

A 20-foot setback shall be required for any and each yard that abuts, adjoins, or is separated by a street, less than 50 feet in width, any residentially zoned property. This additional setback requirement also applies to residentially zoned property that is unincorporated county land.

G. Fences: see BMC 17.45.050.

H. Parking: see chapter 17.54 BMC.

I. Landscaping: see chapter 17.50 BMC.

J. Signs: see chapter 17.63 BMC.

K. Performance standards: see chapter 17.48 BMC. (Ord. 1233 § 5, 1993; Ord. 1206 § 3, 1992).

17.42.060 Supplemental development standards.

A. No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use, subject to the requirements of the Uniform Fire Code.

B. Industrial land abutting directly a residential zone shall provide for a transition to the residential use required in chapter 17.48 BMC, Performance Standards, and the following:

1. A six-foot screening fence and a 20-foot landscaped buffer designed for sight and noise baffling or a six-foot solid block wall and a 10-foot landscaped buffer designed for sight and noise baffling; and
2. Uses generating noise after 9:00 p.m. shall not be permitted, including taverns, assembly occupancies, restaurants with cocktail lounges or dance floors, all night business and other similar types of uses. This shall not include shift work for the industrial use;
3. Measures shall be taken to prevent light and glare from being directed to residential uses.

C. New construction shall comply with the Citywide Design Guidelines, and on sites one acre or larger in size, Chapter 17.69 BMC, Design Review Board. (Ord. 1322 § 9, 1996; Ord. 1260 § 17, 1994; Ord. 1206 § 3, 1992).

¹ Prior legislation: Ords. 890 (Chapter 4), 1136 § 2, 1187 § 2, and 1200 § 4.

The Burlington Municipal Code is current through Ordinance 1817, passed June 25, 2015.

Disclaimer: The City Clerk's Office has the official version of the Burlington Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

(20 hits)

Chapter 17.84 ADULT ENTERTAINMENT ESTABLISHMENTS

Sections:

- 17.84.010 Adult entertainment establishments.
- 17.84.020 Building facades.
- 17.84.030 Signage.

17.84.010 Adult entertainment establishments.

A. Adult Entertainment Establishments. The following businesses or facilities are referred to as “adult entertainment establishments”:

1. “Adult book stores” means a retail establishment in which:
 - a. Twenty-five percent or more of the stock in trade consists of books, magazines, posters, pictures, periodicals or other printed material; distinguished or characterized by a predominant emphasis on matters depicting, describing or related to “specified sexual activities,” as defined in the SWMC. “Stock in trade” for the purpose of this chapter means the total volume of shelf space and display area.
 - b. Any person is excluded by virtue of age from all or part of the premises generally held open to the public where books, magazines, posters, pictures, periodicals, or other predominant emphasis on matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” as defined in the SWMC, are displayed or sold.
2. “Adult cabaret” means a commercial establishment, including public or private clubs, restaurants, bars, taverns or saloons which presents topless dancers, strippers, male or female impersonators, or similar entertainers, or allows “specified sexual activities” or exposure of “specified anatomical areas” as defined in the SWMC, and which excludes any person by virtue of age from all or any portions of the premises.
3. “Adult drive-in theater” means a drive-in theater where at least twenty-five percent of the use is used for presenting motion picture films, video cassettes, cable television, or any other visual media, distinguished or characterized by a predominant emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” as defined in the SWMC.
4. “Adult entertainment” and “adult entertainment premises” mean any enterprise from which minors are excluded and which sells, rents or displays sexually explicit matter, including, but not limited to, adult bookstores, adult magazine stores, stores selling sexually oriented adult games or devices, adult motion picture theaters, adult peep shows, establishments where nude or topless dancing or their displays regularly occur or other similar business.
5. “Adult motion picture theater” means an enclosed building where at least twenty-five percent of the use is used for presenting, for commercial purposes, motion picture films, video cassettes,

cable television, or any other visual media, distinguished or characterized by a predominant emphasis on matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined in the SWMC for observation by patrons therein.

6. “Adult retail store” means a retail establishment in which:
 - a. Twenty-five percent or more of the stock in trade consists of items, products or equipment distinguished or characterized by a predominant emphasis or simulation of “specified sexual activities” or “specified anatomical areas” as defined in the SWMC; or
 - b. Any person is excluded by virtue of age from all or part of the premises generally held open to the public where products or equipment distinguished or characterized by a predominant emphasis or simulation of “specified sexual activities” or “specified anatomical areas” as defined in the SWMC are displayed or sold.
7. “Adult video store” means a retail establishment in which:
 - a. Twenty-five percent or more of the stock in trade consists of prerecorded video tapes, discs, or similar material distinguished or characterized by a predominant emphasis on material depicting, describing or relating to the “specified sexual activities” or “specified anatomical areas,” as defined in the SWMC.
 - b. Any person is excluded by virtue of age from all or part of the premises generally held open to the public where prerecorded video tapes, discs, or similar material distinguished or characterized by a predominant emphasis on matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” as defined in the SWMC are displayed or sold.
8. “Specified anatomical areas” means and includes the following:
 - a. Less than completely and opaquely covered:
 - i. Human genitals, pubic region,
 - ii. Buttock,
 - iii. Breast below a point immediately above the top of the areola;
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
9. “Specified sexual activities” means and includes all of the following:
 - a. Human genitals in a state of sexual stimulation or arousal;
 - b. Acts of masturbation, sexual intercourse or sodomy;
 - c. Fondling or other erotic touching of human genitals, pubic region, buttock or breast.
(Ord. 1309-98 § 2, 1998)

17.84.020 Building facades.

The facade of any adult entertainment establishment shall consist of solid materials or windows with opaque covering so as not to allow observation of inside activities from adjoining properties or rights-of-way. (Ord. 1309-98 § 3, 1998)

17.84.030 Signage.

- A. Signage shall be governed by the dimension requirements of Section 17.40.020 of the SWMC.
- B. On-premises signs will be subject to review by the design review board and must conform to Section 17.40.020 of the SWMC.
- C. Off-premises signs shall be governed by Section 17.40.025 of the SWMC. (Amended during 10/07 supplement; Ord. 1309-98 § 4, 1998)

The Sedro-Woolley Municipal Code is current through Ordinance 1865-16, passed December 14, 2016.

Disclaimer: The City Clerk's Office has the official version of the Sedro-Woolley Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.



SIGN-IN SHEET
ADULT ENTERTAINMENT ADVISORY COMMITTEE
January 31, 2017

	Name	Address	City/State/Zip	Phone	Email
1.	Kathleen Bidogna	2228 Francis Rd	Mount Vernon WA	360 336.6675	Kbidogna@nutrinal.com
2.	LISA TRACHEL	1548 WOODLAND PL.	MT. VERNON WA	615-406-4806	lisatracheryl@gmail.com
3.	Ruoy Keelover	12344 Rainier Rd.	Buena Vista, WA	360 708-9583	Ruoy-keelover@vermont.com
4.	J. S. CORRY	1020 VERA CT	MT VERNON WA	360 941 2417	JMC1020@Hotmail.com
5.	Ryan Hartman	18626 Cascade View Dr	MT. Vernon WA	360-770-7090	Ryan.Hartman@stora.com
6.					
7.					
8.					
9.					

ADULT ENTERTAINMENT ADVISORY COMMITTEE AGENDA

6th Meeting

February 21, 2017

2 PM –3 PM

City Hall - 910 Cleveland Ave

Downstairs Conference Room

2 – 2:10

REVIEW AND APPROVAL OF 1.31.17 MEETING MINUTES

2:10 – 2:50

**REVIEW OF ZONING MAP IN RELATION TO ZONES THAT
ALLOW COMMERCIAL USES AND THE SENSITIVE USES
IDENTIFIED BY THE COMMITTEE**

2:50 – 3:00

PUBLIC COMMENTS

Public comment or testimony to be taken should anyone wish to attend and provide such comment or testimony

3:00

ADJOURN

ATTACHED:

- Meeting Minutes from 1.31.17
- Draft Memo from the Committee to the Planning Commission and City Council

City of Mount Vernon
Adult Entertainment Zoning and Licensing Committee
Minutes from February 21, 2017

The meeting opened at 2:00 p.m. Present were Committee members Ryan Hagman, Rudy Kerkvliet, Kari Matson, Lisa Zacherl, Brian Gentry and Kathleen Bisagna. Also present were Development Services Director Chris Phillips, Senior Planner Rebecca Lowell and Administrative Assistant Linda Beacham. Mount Vernon resident Scott Correa was also in attendance.

Minutes:

Mr. Hagman moved, second by Mr. Kerkvliet, to approve the minutes from January 31, 2017. Motion carried.

Review of Zoning Map:

Mrs. Lowell provided several maps that highlighted areas within the city where adult entertainment businesses could possibly locate. The maps also illustrated areas within the C-L zone (Commerical-Limited Industrial) where residential and other sensitive uses identified by the Committee were applied. Committee members will determine whether to apply buffers of 650 feet or 1,000 feet from residential and sensitive uses. Discussion ensued regarding which areas of the city that adult entertainment businesses would best fit this criteria. Committee members were given maps and recommended to drive through these areas to get a sense of the kind of neighborhoods that exist there.

A brief dialog followed regarding definition of adult entertainment, and the separation of art forms. The Committee agreed the code is progressing well.

Public Comment:

Mount Vernon resident Scott Correa commented on accessory uses within a buffer area, and if Skagit County could re-zone its property within the City. Mrs. Lowell explained just as the City cannot re-zone properties outside its' jurisdictional boundaries the County cannot re-zone its' property within the City limits.

There being no further business the meeting adjourned.



SIGN-IN SHEET
ADULT ENTERTAINMENT ADVISORY COMMITTEE
February 21, 2017

	Name	Address	City/State/zip	Phone	Email
1.	Ryan Herman	16026 CASCADE VIEW DR	MT. VERNON	770-7090	ryan@diversityarts.com
2.	Ruby Kerkvliet	12319 LAWRENCE DR.	BURNING	708-9583	Ruby@ecommst.net
3.	Kari Nelson	111 Windsor Dr.	Mt. Vernon, 98273	360-961-8161	kari.nelson@gmail.com
4.	LISA ZACHERL	1548 WOODLAND DR.	MT. V 98274	(615) 406-4806	lizazacherl@gmail.com
5.	SCOTT CORREA	1020 VERACT	NY	360-941-1417	tmc1020@karmal.com
6.	BRITAN GENTLEY	504 E. Fairhaven	Burlington	360-661-3810	Britan@LandedGentley.com
7.	Kathleen Bisagna	2228 Francis Rd.	Mount Vernon, WA	360 336-6675	kbisagna@hotmail.com
8.					
9.					

ADULT ENTERTAINMENT ADVISORY COMMITTEE AGENDA

7th Meeting

February 28, 2017

5:15 PM – 6:15 PM

City Hall - 910 Cleveland Ave

Downstairs Conference Room

5:15 – 5:25

REVIEW AND APPROVAL OF 2.21.17 MEETING MINUTES

5:25 – 6:05

**REVIEW AREAS WHERE ADULT ENTERTAINMENT USES COULD
BE LIMITED TO**

DISCUSS POTENTIAL SECONDARY NEGATIVE IMPACTS

**DISCUSS REASONABLY AVAILABLE PARCELS IN THE
SOUTH MOUNT VERNON AREA WEST OF I-5**

6:05 – 6:15

PUBLIC COMMENTS

Public comment or testimony to be taken should anyone wish to
attend and provide such comment or testimony

6:15

ADJOURN

ATTACHED:

- Meeting Minutes from 2.21.17

City of Mount Vernon
Adult Entertainment Advisory Committee
Draft Minutes from February 28, 2017

The meeting opened at 5:15 p.m. Present were Committee members Kathleen Bisagna, Rudy Kerkvliet, Lisa Zacherl, and Kari Matson. City Senior Planner Rebecca Lowell and Administrative Assistant Linda Beacham. Committee members Ryan Hagman and Brian Gentry were absent. Mount Vernon resident Scott Correa was also in attendance.

Minutes:

Ms. Zacherl moved, second by Ms. Bisagna, to approve the minutes from February 21, 2017, with the correction of the start time of the meeting from 3:00 p.m. to 2:00 p.m. Motion carried.

Review Areas Where Adult Entertainment Uses Could Be Limited To:

A draft of a comparison table based on the committee's research and analysis was provided for all attendees. The table outlined the number of sites available for adult entertainment uses per jurisdiction capita; percent of overall commercial/industrial land and other detailed data. While several areas within the City's jurisdiction have been studied by the Committee to ensure there is ample opportunity for those choosing to operate adult entertainment businesses, the area meeting the criteria established and posing the least secondary negative impacts is within the south Mount Vernon C- L zone. Staff provided the Committee a summary of parcels in south Mount Vernon that could potentially be developed for adult entertainment uses.

A brief discussion on the link between sex trafficking and adult businesses followed. Ms. Zacherl is waiting for additional information before addressing the Committee on this topic. Signage was also discussed. Mrs. Lowell will provide more detail on signage for adult entertainment uses at the next meeting.

Public Comments:

Mount Vernon resident Scott Correa offered several recommendations on drafting an ordinance regulating adult entertainment uses. Among these were prohibiting private membership clubs, and requiring surveillance such as cameras and lighting.

There being no further business the meeting adjourned.



SIGN-IN SHEET
ADULT ENTERTAINMENT ADVISORY COMMITTEE
February 28, 2017

	Name	Address	City/State/zip	Phone	Email
1.	Kathleen Bigogna	2228 Francis Rd	Mount Vernon	day-time 360 336 6675	kbigogna@hotmail.com
2.	SCOTT GORRELL	1020 VERA CT	MT	360 9411417	SPKTR98273@gmail.com
3.	Rudy Kenkulet	12344 PARKER DR.	Buckingham	360-708-9583	Rudy-KeComcast.net
4.	LISA ZACHEL	1548 WOODKND PL.	MT. VERNON	(615) 406-4806	lizazachel@gmail.com
5.	Kari Matsun	1911 Windsor Dr.	Mt. Vernon	360-961-8161	Karmatsun@gmail.com
6.					
7.					
8.					
9.					

ADULT ENTERTAINMENT ADVISORY COMMITTEE AGENDA

8th Meeting

April 11, 2017

5:15 PM – 6:15 PM

City Hall - 910 Cleveland Ave

Downstairs Conference Room

5:15 – 5:25

REVIEW AND APPROVAL OF 2.28.17 MEETING MINUTES

5:25 – 6:05

REVIEW AND DISCUSSION OF COMMITTEE REPORT

6:05 – 6:15

PUBLIC COMMENTS

Public comment or testimony to be taken should anyone wish to attend and provide such comment or testimony

6:15

ADJOURN

ATTACHED:

- Meeting Minutes from 2.28.17

City of Mount Vernon
Adult Entertainment Advisory Committee
Draft Minutes from April 11, 2017

The meeting opened at 5:20. Present were Committee members Rudy Kerkvliet, Ryan Hagman, Kari Matson, and City Senior Planner Rebecca Lowell and Administrative Assistant Linda Beacham. Mount Vernon resident Scott Correa was also present. Lisa Zacherl, Kathleen Bisagna, and Brian Gentry were absent.

Minutes:

Mr. Hagman moved, second by Mr. Kerkvliet, to approve the minutes from February 28, 2017. Motion carried.

Review and Discussion of Committee Report:

Mrs. Lowell provided the committee members copies of the draft ordinance, maps and the committee report. The report includes numerous studies and reports reviewed and analyzed by the Committee members. It will also include the Committee's recommended area for adult entertainment uses. This report will become an appendix of the ordinance.

The Committee members reviewed and discussed the maps outlining areas to be considered, or not considered, for adult entertainment uses. This area is generally located west of I-5 to the City boundary, south of Suzanne Lane, north of Hickox Road. The Committee also reviewed definitions and illustrations of areas of the human body that must be covered.

Following a brief discussion by Mr. Correa regarding parliamentary rules, the Committee members agreed to forward the draft ordinance with appendixes to the Planning Commission, who will hold a public hearing on April 18th. If approved by Planning Commission it will be recommended to City Council for adoption. City Council will hold a public hearing on April 26th.

There being no further business the meeting adjourned.



**SIGN-IN SHEET
ADULT ENTERTAINMENT ADVISORY COMMITTEE
April 11, 2017**

	Name	Address	City/State/zip	Phone	Email
1.	SCOTT CORRELL	1020 VERA CT	MT Vernon 98273	3609411417	SCOTTR98273@gmail.com
2.	LUDY KERKUIET	12344 Rainier Dr.	Burlington, WA 98253	360-708-9583	ludykerkuiet@gmail.com
3.	Ryan Hagman	18626 Cascade View Dr	Pt. Vernon WA 98274	360-770-7030	RYANHAGMAN@HOTMAIL.COM
4.	Kari Matson	1911 Knudsen Drive	Pt. Vernon WA 98273	360-961-8161	Karmatson@gmail.com
5.					
6.					
7.					
8.					
9.					

APPENDIX C

REPORTS, STUDIES & ITEMS

STUDIED BY THE COMMITTEE:

These items are identified as

Exhibits 1.1 to 1.28 of the Council's

Legislative Record

APPENDIX D

**COMMITTEE ANALYSIS OF
SECONDARYNEGATIVE IMPACTS**

**ADULT ENTERTAINMENT ADVISORY COMMITTEE
NEGATIVE SECONDARY IMPACTS ANALYSIS**

INTRODUCTION:

Negative secondary impacts are defined as indirect negative impacts that occur as a result of an adult entertainment use locating in a geographic area.

Research compiled to-date shows that numerous communities both in Washington State and across the Country have experienced negative secondary impacts from adult uses. Evaluating experiences from other jurisdictions that have experience with regulating adult uses is important because Mount Vernon is able to learn from these experiences and adopt regulations to mitigate the negative impacts others have endured.

A summary of some of the more significant negative impacts from existing adult entertainment uses in other jurisdictions are briefly summarized below.

**NEGATIVE
SECONDARY
IMPACTS**

DOCUMENTATION/EVIDENCE:

**INCREASED INCIDENCE
OF CRIME**

**CREATION OF AN
ATMOSPHERE FOR
CRIMES**

“...between 1969 and 1972, the number of adult theaters in the City of Detroit increased from 2 to 18 and the number of adult bookstores rose from 2 to 21. During the same period, the incidence of crime in and around these establishments increased dramatically” [City of Bellevue. (1987). *A Study on the Need to Regulate the Location of Adult Entertainment Uses, Part 1*. Bellevue, WA. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/b44adult.pdf>]

“Similar to Detroit, the City of Cleveland experienced a rapid increase of adult uses during the early 1970’s...In 1976, 26 adult businesses (8 theaters and 18 bookstores) were located in Cleveland’s 204 census tracts. The same year, the two census tracts having the highest rates of crime had a total of 8 pornography outlets. Cleveland Police statistics showed that during 1976 there was an average of 20.5 robberies per census tract. In the 15 census tracts which contained adult businesses, the average was nearly double at 40.5 robberies. A single census tract which contained 5 pornography outlets and a population of only 730 persons had a total of 136 robberies. The statistics for rape echoed the same pattern as for robbery. The citywide average of rape in Cleveland in 1976 was 2.4 per census tract. In the 15 census tracts containing pornography outlets, the rate was double that” [City of Bellevue. (1987). *A Study on the Need to Regulate the Location of Adult Entertainment Uses, Part 1*. Bellevue, WA. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/b44adult.pdf>]

“The City of Kent, Washington had similar experiences with the Roadside Inn Tavern. Prior to its forced closing, the Roadside Inn offered topless dancing and table dancing in conjunction with its selling of alcoholic beverages. Kent police investigations conducted in the summer of 1981 revealed a very high incidence of criminal activity at the Roadside, related primarily to six crimes (prostitution) and drug related offenses” [City of Bellevue. (1987). *A Study on the Need to Regulate the Location of Adult Entertainment Uses, Part 1*. Bellevue, WA. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/b44adult.pdf>]

“Bothell’s experiences with Mama Hoopah’s in 1982 demonstrated similar association between the use (an adult dance hall) and the occurrence of crime. Research by the Bothell Police Department also demonstrated the regional attraction that such an establishment can have. In one investigation of the 321 vehicles checked, 8 were registered in Bothell with most of the remainder from the Puget sound region, though others had out of state registration. This is potentially significant in that nonresidents of an area may be less inhibited in their personal behavior when away from their community” [City of Bellevue. (1987). *A Study on the Need to Regulate the Location of Adult Entertainment Uses, Part 1*. Bellevue, WA. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/b44adult.pdf>]

“...testimony by individuals involved in the North End Cinema (located in North Seattle) indicated that the property owners sited...increased crime, and other factors in their concern about the nuisance element of this theater” [Thorpe, R.W. (1984). *Des Moines Adult Use Study*. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/d44adult.pdf>]

“Discussions with the City Planner reviewed the history of their attempts to remove an adult theater use from downtown Aberdeen. The City Planner cited increased instance of crime” [Thorpe, R.W. (1984). *Des Moines Adult Use Study*. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/d44adult.pdf>]

“Discussions with members of the City Planning Staff (City of Redmond) indicate that problems similar to the North End Cinema were cited related to crime, late night disturbances...[Thorpe, R.W. (1984). *Des Moines Adult Use Study*. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/d44adult.pdf>]

“An analysis of crime rates was conducted by comparing areas with adult businesses (study areas) to areas without adult businesses (control areas). Both control and study areas are circular in shape with a 1,000 foot radius, contain similar land uses, and are in close proximity to one another. Four study areas were defined: two with single businesses and two with more than one business. Within the study areas, six-related crimes were found to be from two to nearly five times the city-wide average. Also, sex-related crime rates were found to be 66% higher in study areas with two adult businesses compared to study areas with only one business” [City of Austin (1986). *Report on Adult Oriented Businesses in Austin*. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/o46adult.pdf>]

“The City of Federal Way has experienced criminal activity in connection with the operation of Déjà Vu, an adult entertainment facility located at 31656 Pacific Highway South, Federal Way, Washington 98003. Criminal activity has also occurred in connection with the operation of X-Otic Tan, an adult entertainment facility located at 29500 Pacific Highway S., Federal Way, Washington” [Lindell, L.K. (1995). *Adult Entertainment Code Amendments*. Federal Way, WA. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/f4adult.pdf>]

“Déjà Vu, Tukwila...provides stage dancing, table and couch dances. Tukwila police investigations conducted in the summer of 1994 resulted in over 500 criminal convictions relating primarily to six crimes such as prostitution. The 500 convictions includes 70 convictions for prostitution” [Lindell, L.K. (1995). *Adult Entertainment Code Amendments*. Federal Way, WA. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/f4adult.pdf>]

“In April, 1978, the Department of Regional Planning of the County of Los Angeles published a study entitled Adult Entertainment Study and Proposed Zoning Ordinance Amendment. In the study, law enforcement officers were surveyed. Responses from the surveys indicated that areas with a concentration of adult businesses have a higher incidence of public intoxication, theft, assault, disturbing the peace, and sex-related vice. Respondents indicated that nude bars, modeling studios, and massage parlors cause the most individual problems” [City of Austin (1986). *Report on Adult Oriented Businesses in Austin*. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/o46adult.pdf>]

“In February, 1984, the Division of Planning in Indianapolis published a report entitled *Adult Entertainment Businesses in Indianapolis: An Analysis*. This report contained the results of an evaluation of the impact of adult business upon the surrounding area in terms of crime rates and real estates values...The Indianapolis study assessed the impact of adult entertainment businesses on crime rates by researching six areas containing adult businesses and six similar areas containing no adult businesses...The evaluation found that for both the Study and Control Areas, the rate of major crimes was higher than the corresponding rate for the Indianapolis Police District as a whole. The average annual rate for major crimes in the Study Areas was 23 percent higher than the corresponding rate in the Control Areas. Comparison of the rates for sex-related crimes indicated a considerably larger difference between the Study and Control Areas. The average annual rate for sex-related crimes in the Study Area was 77 percent higher than the corresponding rate in the Control Areas. The study also found a strong correlation between the crime frequency and the residential character of the Study areas. Crime rates were 56 percent higher in predominantly residential areas than in predominantly commercial areas. The study found a more acute difference regarding sex-related crimes. Sex-related crimes occurred four times more frequently in predominantly residential areas than in areas that were substantially commercial in nature” [City of Austin (1986). *Report on Adult Oriented Businesses in Austin*. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/o46adult.pdf>]

“The Minneapolis study found a much stronger relationship between sexually oriented businesses and crime rates. A crime index was constructed including robbery, burglary, rape and assault. The rate of crime in areas near sexually oriented businesses was hen compared to crime rates in other areas. The study drew the following conclusions:

- (1) The effects of sexually oriented businesses on the crime rate index is positive and significant regardless of which control variable is used.
- (2) Sexually oriented businesses continue to be associated with higher crime rates, even when the control variables’ impacts are considered simultaneously.

According to the statistical analysis conducted in the Minneapolis study, the addition of one sexually oriented business to a census tract area will cause an increase in the overall crime rate index in that area by 9.15 crimes per thousand people per year even if all other social factors remain unchanged”. [Minnesota Attorney General (1989). *Report of the Attorney General’s Working Group on the Regulation of Sexually Oriented Businesses*, pg. 383-384]

The Planning Department of Phoenix, Arizona published a study in 1979 entitled “*Relation of Criminal Activity and Adult Businesses*”. This study showed that arrests for sexual crime and the location of sexually oriented businesses were directly related. The study compared three areas with sexually oriented businesses with three control areas which had similar and demographic and land use characteristics but no sexually oriented establishments. The study found that,

- (1) Property crimes were 43 percent higher in those areas which contained a sexually oriented businesses.
- (2) The sex crime rate was 500 percent higher in those areas with sexually oriented businesses.
- (3) The study area with the greatest concentration of sexually oriented businesses has a sex crime rate over 11 times as large as a similar area having no sexually oriented businesses”.

[Minnesota Attorney General (1989). *Report of the Attorney General’s Working Group on the Regulation of Sexually Oriented Businesses*, pg. 383-384]

**NEGATIVE
SECONDARY
IMPACTS**

DOCUMENTATION/EVIDENCE:

**DECLINING PROPERTY
VALUES**

“...the majority of appraisers agreed that the impact of adult uses on residential property values is probably negative although no general rule can be applied. One appraiser estimated that the adverse effect could be as much as one to three percent of the property’s total value” [City of Bellevue. (1987). *A Study on the Need to Regulate the Location of Adult Entertainment Uses, Part 1*. Bellevue, WA. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/b44adult.pdf>]

“As a general rule, most appraisers felt that in cases where an adult use located in a commercial environment, little or no adverse impact would be expected either to surrounding businesses or property values” [City of Bellevue. (1987). *A Study on the Need to Regulate the Location of Adult Entertainment Uses, Part 1*. Bellevue, WA. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/b44adult.pdf>]

“The appraisers perception of various communities of which they are located, (Renton, Bremerton, Seattle, Redmond) indicates that they feel that this type of use (referring to adult uses) when included next door to other healthy businesses may result in a reduction of property values and/or rental income stream. Most appraisers felt that there is a negative impact on residential property values as well as an impact on business property values” [Thorpe, R.W. (1984). *Des Moines Adult Use Study*. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/d44adult.pdf>]

In surveys of professional real estate appraisers (described in the Austin study) “78%...felt that residential property values would decrease if located within one block of an adult business...80% of those surveyed felt residential property values would decrease if located within a block of an adult business” [City of Austin (1986). *Report on Adult Oriented Businesses in Austin*. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/o46adult.pdf>]

“...studies performed in Kent, Washington; Bellevue, Washington; Austin, Texas; Minnesota; and Indianapolis, Indiana, of the secondary impacts of adult entertainment uses. Many of these studies conclude that adult uses result in a reduction in property values of surrounding properties” [Lindell, L.K. (1995). *Adult Entertainment Code Amendments*. Federal Way, WA. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/f4adult.pdf>]

“The data and analyses reported in this document make a clear, compelling statement about the secondary consequences of the adult entertainment businesses along Garden Grove Boulevard. In terms of property values alone, the survey of real estate professionals leads to the unambiguous conclusion that the mere presence of these businesses depresses residential and commercial property values. While the effect on commercial property values is problematic, the effect on residential property values argues for strict regulations governing the distance of adult businesses from residential neighborhoods. In commercial zones, moreover, the consistent opinions of real estate professionals suggest that high density [referring to adult entertainment businesses] also depresses commercial property values. This argues for strict regulations governing the distances between adult businesses”. [McCleary, Richard and Meeker, James (1991) *Final Report to the City of Garden Grove: The Relationship Between Crime and Adult Business Operations on Garden Grove Boulevard*. Pg. 47]

**NEGATIVE
SECONDARY
IMPACTS**

DOCUMENTATION/EVIDENCE:

**DETERIORATION OF
AREAS**

“Seattle: First Avenue and 3rd Avenue & Union Sites = Adult Cinemas...The general observation of these buildings is that these buildings and their uses create deferred maintenance, functional obsolescence and some general decline in upkeep and visual appearance of the existing buildings and adjacent uses” [Thorpe, R.W. (1984). *Des Moines Adult Use Study*. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/d44adult.pdf>]

**NEGATIVE
SECONDARY
IMPACTS**

DOCUMENTATION/EVIDENCE:

**INCOMPATIBILITY WITH
OTHER USES**

“Based on the experience of certain Puget Sound communities, it has been demonstrated in the past that adult uses are incompatible with residential, educational, and religious uses. This fact was best demonstrated in the Greenwood area of Seattle in the mid-1970’s when a local theater began showing X-rated films. Residents of Greenwood complained loudly about increased traffic, undesirable patrons, lowered property values and other adverse impacts. Residents argued that theirs was an area of residences, churches, schools, and social gathering places, a closely-knit neighborhood unaccustomed to adult theaters and the disruptive impacts associated with such uses” [City of Bellevue. (1987). *A Study on the Need to Regulate the Location of Adult Entertainment Uses, Part 1*. Bellevue, WA. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/b44adult.pdf>]

**NEGATIVE LAND USE
IMPACTS**

“...a “topless” tavern disrupted the quality of life for some Kent residents. The incident involved the Roadside Inn Tavern – a tavern offering topless table dancing – and the residents of an adjacent mobile home court. In July 1981, the residents of Bonel Mobile Home Court submitted a petition requesting the Kent City Council to revoke the business license of the Roadside. At the public hearing on the license revocation, residents complained about the Roadside’s excessive noise and litter impacts which spilled over onto adjacent residential properties” [City of Bellevue. (1987). *A Study on the Need to Regulate the Location of Adult Entertainment Uses, Part 1*. Bellevue, WA. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/b44adult.pdf>]

**NEGATIVE IMPACTS ON
QUALITY OF LIFE**

Land use impacts attributed to adult uses, “There appears to be a definite impact on adjacent land uses, the turnover of tenants, deferred maintenance, functional obsolescence, maintenance of access areas such as streets and parking lot surrounding these (adult) uses. [Thorpe, R.W. (1984). *Des Moines Adult Use Study*. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/d44adult.pdf>]

DECLINING TOURISM

“...studies performed in Kent, Washington; Bellevue, Washington; Austin, Texas; Minnesota; and Indianapolis, Indiana, of the secondary impacts of adult entertainment uses...These studies also conclude that adult uses are incompatible with residential, educational and religious uses” [Lindell, L.K. (1995). *Adult Entertainment Code Amendments*. Federal Way, WA. Retrieved from <http://mrsc.org/Corporate/media/MediaLibrary/SampleDocuments/GovDocs/f4adult.pdf>]

The Minnesota Attorney General’s “Working Group heard testimony that a concentration of sexually oriented businesses has serious impacts upon the surrounding neighborhood. The Working Group heard that pornographic materials are left in adjacent lots. One person reported to the police that he had found 50 pieces of pornographic material in a church parking lot near a sexually oriented businesses. Neighbors report dining used condoms on their lawn and sidewalks and that sex acts with prostitutes occur on streets and alleys in plain view of families and children...Prostitution also results in harassment of neighborhood residents. Young girls on their way to school or young women on their way to work are often propositioned by johns. The Flick theater caters to homosexual trade, and male prostitution has been noted in the area”. [Minnesota Attorney General (1989). *Report of the Attorney General’s Working Group on the Regulation of Sexually Oriented Businesses*, pg. 389]

“Concentrations of [these] adult-only activities have detrimental effects upon surrounding residential and commercial activities. These effects are caused by (a) the noise, lighting and traffic generated by the pedestrian and vehicular traffic frequenting these businesses whose primary hours of operation are from late evening to late night, (b) the increased opportunity for “street crimes” in areas with high pedestrian traffic, and (c) the tendency to avoid areas where adult businesses (especially pornographic) are established. This avoidance and other factors can lead to the deterioration of surrounding commercial and residential activities”. [City of Amarillo, TX Planning Department (1977) *A Report on Zoning and Other Methods of Regulating Adult Entertainment in Amarillo*. pg. 15].

“Many residents of the communities in which adult entertainment establishments are located have complained about the impacts from these establishments. These impacts include: exposure of children and teenagers to graphic sexual images, increased crime, diminishing property values, adverse effects upon the climate for other types of commercial activities and overall negative influences upon community character. Sexually explicit business signs or displays visible from the public street are particularly offensive” (New York Department of City Planning (1994) *Adult Entertainment Study*, pg 61]

NEGATIVE SECONDARY IMPACTS**DOCUMENTATION/EVIDENCE:****HUMAN TRAFFICKING ASSOCIATIONS**

In 2012 the Canadian government moved to ban foreign strippers, escorts and massage-parlor workers “saying that cutting back on human trafficking and exploitation is at the heart of the decision”. Jason Kenney (the Conservative Party Government’s then Immigration Minister) “says the decision is part of a larger government effort to crack down on human trafficking, as the Royal Canadian Mounted Police has expressed repeated concerns over the link between escort agencies, brothels and massage parlors and human-trafficking and sexual-exploitation cases” [Newcomb, T. (2012, July 8). Canada Stripping Visas for Foreign Strippers. Time.com. Retrieved January 1, 2017, from <http://newsfeed.time.com/2012/07/08/canada-stripping-visas-for-foreign-strippers/>]

May 2012, the City of Houston, TX and Harris County file a lawsuit asking that a strip club named Treasures, be ordered to be closed for alleged ties to human trafficking and drug activity. [Reed, M. (2012, May 16). Human trafficking, drug activity at Treasures strip club, alleged by prosecutors. Chron.com. Retrieved January 1, 2017, from <http://www.chron.com/news/article/Human-trafficking-drug-activity-at-Treasures-9397283.php>]

May 2015, Greenville County, South Carolina, Sheriff states that his office began an investigation of the Platinum Plus strip club because women are lured into human trafficking. “Traffickers lure these girls with the idea of travel money and an easy life,” said the Greenville County Sheriff. [WSPA New Staff. (2015, May 8). Prostitution and strip clubs often linked to human trafficking, deputies say. WBTW.com. Retrieved January 1, 2017, from <http://wbtw.com/2015/05/08/prostitution-and-strip-clubs-often-linked-to-human-trafficking-deputies-say/>]

June 2015, three strip clubs in Baltimore were raided in connection with a human trafficking case, Baltimore Police and FBI state [Khan, S. (2015, June 26). 3 Baltimore strip clubs raided in human trafficking case. WBALTV.com. Retrieved January 1 2017, from <http://www.wbalTV.com/article/3-baltimore-strip-clubs-raided-in-human-trafficking-case/7094376>]

June 2015, Portland, Oregon. “Victim advocates say Portland is a hub for such exploitation (referring to sex trafficking), due to its abundance of strip clubs and online services...Sex trafficking is a transient crime, local police say – pimps and gangs will sell victims from California to Portland and when business is slow, they’ll move to Seattle or Vegas...”Strip clubs serve as fertile ground for the problem to fester”, said Sgt. Charles Lovell of the Portland Police Bureau. “Generally speaking, you have guys there, with money, already looking for sex. If you are a pimp or a sex trafficker, it’s a good place to peddle your services.” [Campbell, A. (2015, June 26). Where Strip Clubs Thrive In Portland, So Does Child Sex Trafficking. Huffingtonpost.com. Retrieved January 1, 2017, from http://www.huffingtonpost.com/2015/06/25/child-sex-trafficking-strip-clubs-portland_n_7650778.html]

NEGATIVE SECONDARY IMPACTS**DOCUMENTATION/EVIDENCE:**

IMPACTS TO THE PUBLIC'S HEALTH, SAFETY AND WELFARE

"throughout the time that I have handled the adult entertainment issues for the City and County of Spokane the City and County have received numerous citizen complaints regarding the adverse secondary effects of adult retail use establishments in the communities in which they locate. Citizens have related finding discarded sexual paraphernalia around these adult retail use establishments, a high incidence of prostitution around these facilities, finding doors to the facilities open on hot days allowing minors to view the interior of the facility thereby being exposed to adult entertainment material..."

Quote from a Declaration of Patricia Walker, Special Deputy Prosecuting Attorney for Spokane County. Ms. Walker also submitted copies of pornographic items citizens have found near adult entertainment facilities.

Declaration of Londi Lindell, City Attorney of Federal Way, submitting photographs from a magazine found by Bob Evans, discarded in a parking lot of an Adult Retail Establishment

Declaration of Marilyn Petersen (City Clerk for the City of Renton) submitting exhibits given to the Renton City Council from Phillip Beckley. Mr. Beckley's exhibits included: a pornographic video cassette and pornographic video wrappers found in the parking lot of a video store located across the street from a school.

Declaration of Karen Rel from World Wide Video of Washington, Inc v. City of Spokane (NO. CS-02-0074-AAM). Ms. Rel documents the impacts from an adult business near her home on her surrounding neighborhood. Mrs. Rel states that she has observed all of the following at the adult business near her home: public masturbation, public acts of prostitution or other sexual conduct, public urination, graphic erotic materials and other items that are harmful to minors found near her home.

Testimony of Karen Roberts at a Planning Commission meeting on February 13, 2002. Ms. Roberts lived near an adult entertainment business and testified about the following: witnessing public masturbation, witnessing acts of prostitution, finding graphic erotic materials and other items that are harmful to minors littered near her home, finding used condoms that she would pick up every morning.

Declarations from Dr. Joseph Asterino and Ron Hansen both from World Wide Video of Washington, Inc v. City of Spokane (NO. CS-02-0074-AAM). Dr. Asterino and Mr. Hansen both document finding graphic erotic materials and other items that are harmful to minors near their business located in close proximity to an adult entertainment use. Mr. Hansen also documents public urination and having been personally threatened in his parking lot by an individual that was visiting the nearby adult entertainment use.

Declaration of Joseph Books from World Wide Video of Washington, Inc v. City of Spokane (NO. CS-02-0074-AAM). Mr. Books worked at an adult entertainment use and in his declaration stated that the following criminal acts took place at the adult entertainment use he worked at: prostitution, drug transactions, and lewd conduct. Mr. Books states that calls to the Police were avoided, i.e., it was an unwritten policy to not call the police for any crimes, except when a store was robbed. Mr. Books also stated, *"it was common to have customers at the stores who were either strung out*

on drugs or drunk. These persons, along with those engaging in criminal conduct, would come into contact with minors in or around the stores...Some of the videos sold in the stores had minors performing on them”.

Memorandum from the Blaine Department of Public Safety (Police Division) dated September 8, 1998 summarizing two reports of criminal activity alleged to occur near the Blaine Book Company – a business that sold pornographic materials. The first report was from a 27 year old female who was held against her will, beaten and raped by multiple persons within the Blaine Book Company. The second report was an allegation of solicitation of a minor for prostitution that occurred at a City Park that adjoins the Blaine Book Company.

Declaration from Officer DeVore, City of Bellevue, regarding an incident with suspects that met at R & R Adult Toys store. Officer DeVore’s declaration states that two suspects taken into custody both stated they had just come from an adult entertainment use named R & R Adult Toys and that after meeting at this store they drove to a nearby lot and were discussing future sexual activities they wished to engage in.

Declarations from Herbert Hall (customer of adult book stores), Officer Ricardo Bermudez, Officer Todd Elgin, Officer Gary Faust, Officer Mark Hutchinson and Declarations from the following persons describes as neighbors of A-Z Bookstore: Sherilyn Duarte, Lam-Son Trinh, Mr. and Mrs. Ron Foster, Erin K. Davis, Gary Adamson, Joe and Vera Moralez, Joe Keohane, and Buddy Allred, J. Gaynor