

BRIEFING PAPER
CITY OF SPOKANE
PUBLIC SAFETY COMMITTEE
July 15, 2013

Subject:

Adoption of a new section 10.06.050 to chapter 10.06 SMC relating to unlawful public exposure.

Background:

The City has adopted SMC 10.06.025 regarding indecent exposure, which is consistent with state law under RCW 9A.88.010. The charge of indecent exposure requires a person to intentionally make any open and obscene exposure of his person or the person of another knowing that such conduct is likely to cause reasonable affront or alarm. Under certain circumstances, a charge of indecent exposure can lead to a class C felony under state law. The conduct described in the proposed ordinance does not meet the criteria of indecent exposure. The proposed ordinance will create a separate charge designated as unlawful public exposure, which, while still a criminal misdemeanor, would not potentially result in a subsequent felony charge.

The proposed ordinance is similar to the action taken by the City in 2011 with the adoption of Ordinance No. C-34793, which separated the act of urinating in public from the existing charge of Lewd Conduct contained in SMC 10.06.020 into a separate charge under SMC 10.06.015.

Impact:

The adoption of the proposed ordinance would create a new charge of unlawful public exposure, which would be separate from the charge of indecent exposure.

BRIEFING PAPER

Public Safety Committee

July 15, 2013

Subject

Supporting materials for unlawful public exposure ordinance, specifically relates to "bikini barista" drive through coffee shops.

Background

Citizen concerns have arisen regarding drive through coffee shops wherein the employees are females wearing lingerie, bikinis or less. As a result, a proposed amendment to SMC 10.06.025 is being presented for consideration. The draft ordinance is based upon similar ordinances on the west side of the state, primarily Snohomish County and the cities of Renton and Everett. The indecent exposure ordinance would apply throughout the City and is not limited to just espresso stands.

Further research has provided additional alternatives regarding these concerns.

Spokane Regional Health District (SRHD) whose mission is to serve as the region's public health leader and partner to protect and improve the community's health provided the following information:

A)

Washington State Retail Food Code Chapter 246-215 Washington Administrative Code (WAC) Effective May 1, 2013

Subpart C - Personal Cleanliness

02300 Hands and arms--Clean condition (2009 FDA Food Code 2-301.11).

FOOD EMPLOYEES shall keep their hands and exposed portions of their arms clean.

02335 Outer clothing--Clean condition (2009 FDA Food Code 2-304.11).

FOOD EMPLOYEES shall wear clean outer clothing to prevent contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES.

Subpart D - Hygienic Practices

02410 Hair restraints--Effectiveness (2009 FDA Food Code 2-402.11)

FOOD EMPLOYEES shall wear short hair or use hair restraints such as hats, hair coverings or nets, rubber bands, or hair clips to keep their hair off the face and behind their shoulders, and clothing that covers body hair to protect exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES.

SRHD is the "policing agency", for Food establishment and food employee compliance. They, much like City of Spokane Code Enforcement, are complaint driven, and will investigate

businesses that violate the WAC Retail Food Code. Baristas wearing bikinis, lingerie or less may not be in compliance.

B)

The Department of Labor & Industries is a state agency dedicated to the safety, health and security of Washington's workers. They help employers meet safety and health standards and they inspect workplaces *when alerted to hazards*.

Again, like City of Spokane Code Enforcement, they are complaint driven. If an employee at a drive through coffee stand who is required to wear a bikini, lingerie, or less files a complaint regarding workplace safety, L&I will investigate.

Chapter 296-800 WAC

Last Update: 12/4/12

SAFETY AND HEALTH CORE RULES

WAC 296-800-11010

Provide and use means to make your workplace safe.

You must:

Provide and use safety devices, safeguards, and use work practices, methods, processes, and means that are reasonably adequate to make your workplace safe.

WAC 296-800-11005

Provide a workplace free from recognized hazards.

You must:

Provide your employees a workplace free from recognized hazards that are causing, or are likely to cause, serious injury or death.

Note: A hazard is recognized if it is commonly known in the employer's industry, or if there is evidence that the employer knew or should have known of the existence of the hazard, or if it can be established that any reasonable person would have recognized the hazard.

It is commonly known in the industry that when working with hot liquids, hot steam, and high pressure equipment, burns to the skin can occur. In the absence of clothing that covers the skin, there is a potential safety hazard.

Summary

The proposed ordinance addresses unlawful public exposure, the WAC addresses employee safety and consumer protections.

per·i·ne·um

☒ pɛrəˈniəm Show Spelled [per-uh-nee-uhm] Show IPA

noun, plural per·i·ne·a ☒ -ˈniə Show Spelled [-nee-uh] Show IPA . *Anatomy* .

1.

the area in front of the anus extending to the fourchette of the vulva in the female and to the scrotum in the male.

2.

the diamond-shaped area corresponding to the outlet of the pelvis, containing the anus and vulva or the roots of the penis.

areola

☒ əˈriələ Show Spelled [uh-ree-uh-luh] Show IPA

noun, plural a·re·o·lae əˈriəˌli Show Spelled [uh-ree-uh-lee] Show IPA , **a·re·o·las**. *Biology* .

1.

a ring of color, as around the human nipple.

2.

a small interstice, as between the fibers of connective tissue.

Anal cleft

The **intergluteal cleft**, also known as the **natal cleft**, the **vertical gluteal crease**, the **gluteal cleft**, and, colloquially, the "butt crack" or "arse crack", is the groove between the buttocks that runs from just below the sacrum to the perineum, so named because it forms the visible border between the external rounded protrusions of the gluteus maximus muscles. The intergluteal cleft is located superior to the anus.