

ORDINANCE NO. 490

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, AMENDING TITLE 5, OF THE UNIVERSITY PLACE MUNICIPAL CODE "BUSINESS LICENSES AND REGULATIONS" TO CHANGE THE TITLE AND DUTIES OF THE CITY DEPARTMENT RESPONSIBLE FOR BUSINESS LICENSES, ADULT ENTERTAINMENT BUSINESSES, PANORAM DEVICES, AND PEDDLER/SOLICITOR LICENSES TO CONFORM TO THE NEW ORGANIZATIONAL STRUCTURE AND TO MAKE HOUSEKEEPING REVISIONS TO TITLE 5.

WHEREAS, in August 2006, the organizational structure changed to move the duties associated with licensing under Title 5 moved from the City Clerk to the City Manager's designee; and

WHEREAS, Title 5 of the University Place Municipal Code needs to be changed to reflect the new organizational structure; and

WHEREAS, several housekeeping revisions need to be made to Title 5 of the University Place Municipal Code to bring Title 5 into conformance with current practices.

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

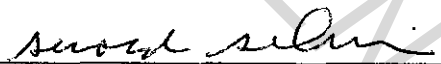
Section 1. Amending Title 5 UPMC "Business Licenses and Regulations". Title 5 of the University Place Municipal Code is hereby amended as set forth in Exhibit A attached hereto and hereby incorporated by this reference.

Section 2. Copy to be Available. One copy of this ordinance shall be available in the office of the City Clerk for use and examination by the public.

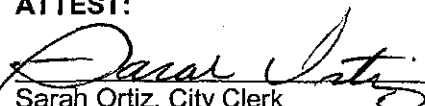
Section 3. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances by a court of competent jurisdiction shall not be affected.

Section 4. Publication and Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall be effective five days after publication hereof.

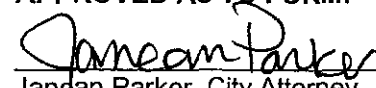
PASSED BY THE CITY COUNCIL ON FEBRUARY 12, 2007.


Gerald Gehring, Mayor

ATTEST:


Sarah Ortiz, City Clerk

APPROVED AS TO FORM:


Janean Parker, City Attorney

Published: 02/14/07

Effective Date: 02/19/07



Chapter 5.05

BUSINESS LICENSES

Sections:

5.05.010 Definitions.

5.05.020 Business license required.

5.05.030 Separate licenses required.

5.05.040 Change in nature or location of business.

5.05.050 Nonconforming uses.

5.05.060 Exemptions.

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5.05.220 Emergency suspension.

5.05.010 Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed in this section, except where the context clearly indicates a different meaning:

A. "Business" shall mean and include vocations, occupations, professions, enterprises, and establishments and all other activities and matters conducted for private profit or benefit, either directly or indirectly, anywhere within the city.

B. "Designee" shall mean the City Manager's Designee.

B C. "Person" shall means any individual, corporation, company, firm, joint stock company, co-partnership, joint venture, trust, business trust, club, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, receiver, administrator, executor, assignee, or trustee in bankruptcy.

€ D. "Premises" shall mean and include all lands, structures and places, and also any personal property which either is affixed to, or is used in connection with, any such business conducted on such premises.

(Ord. 357 § 1, 2002).

5.05.020 Business license required.

No person shall transact, engage in or carry on any business, trade, profession, occupation, calling or activity without first having been issued a business license unless such activity is exempt as provided in UPMC 5.05.060.

(Ord. 357 § 2, 2002).

5.05.030 Separate licenses required.

A separate business license shall be obtained for each separate location within the city at which the business is conducted. A separate business license shall be obtained for each different and discrete business conducted within the city by any person, even if located at the same premises as another licensed business.

(Ord. 357 § 3, 2002).

5.05.040 Change in nature or location of business.

Each business license shall authorize a particular type of business at the designated location. Any change in the nature of the business shall necessitate a new application for a business license. A change of location shall be reported in writing to the ~~city clerk~~ designee within 10 days of the change and, if in compliance with zoning and business regulatory ordinances, the existing business license shall be transferred to the new location.

(Ord. 357 § 4, 2002).

5.05.050 Nonconforming uses.

Registration does not constitute vesting nor ratification of a nonconforming use. The purpose of this chapter is to identify and register businesses which are active in the city. Identification is necessary to protect public health, safety and welfare of the community. The issuance of a business license by the city does not constitute either approval of a business or the use of any particular parcel in the city for a business purpose. By issuing a business license, the city shall not be precluded from taking enforcement action against any use which is not authorized in the zone in which it is occurring. The procurement of a business license does not vest the licensee with any rights to continue a nonconforming use.

(Ord. 357 § 5, 2002).

5.05.060 Exemptions.

The following shall be exempt from the provisions of this chapter:

A. Casual or isolated sales made by persons who are not engaged in the on-going business of selling the type of property involved, providing that not more than four such sales events are made during any tax year.

B. All businesses with gross annual revenues of less than \$12,000.

C. All businesses which are exempt from master business license registration under WAC 458-20-101(2)(a).

D. Minors engaged in babysitting, delivery of newspapers, lawn mowing, car washing, and similar activities.

E. Any instrumentality of the United States, state of Washington, or any political subdivision thereof, with respect to the exercise of governmental functions.

F. All special events sponsored by the city, but not to include participating commercial peddlers-vendors.

G. Nonprofit organizations, including but not limited to religious, civic, charitable, benevolent, nonprofit, cultural or youth organizations.

(Ord. 364 § 1, 2002; Ord. 357 § 6, 2002).

5.05.070 Processing procedure.

The ~~city clerk~~ designee shall issue registrations in the name of the city to all persons qualified under the provisions of this chapter and shall:

A. Adopt all forms and prescribe the information required to implement this chapter including, but not limited to, annual gross revenue declarations.

B. The ~~city clerk~~ designee shall establish procedures to carry out the business license exemption program and shall obtain a sworn declaration from business owners or managers that the business meets the exemption criteria of UPMC 5.05.060.

C. Submit all applications to the community development department, the community services department, the police department, the fire district, and any other city department or division as necessary for their endorsements as to compliance by applicant with all city regulations which they have the duty of enforcing.

D. Notify any applicant of the acceptance or rejection of the application and shall, upon denial of any registration, state in writing the reason for rejection and the process for appeal.

E. Deny any application for registration upon written findings: (1) that the granting would be detrimental to public peace, health, or welfare; (2) that such application for registration is not in compliance with any applicable city regulation; or (3) that the applicant has not paid any applicable tax penalty or fee imposed by the city.

F. When any such registration is denied, the applicant may appeal such decision to the hearings examiner pursuant to the process described in UPMC 5.05.190.

G. When a registration issuance is denied as well as any action instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the

registration was refused unless or until the registration is issued pursuant to an administrative or judicial judgment.

(Ord. 423 § 4, 2004; Ord. 364 § 2, 2002; Ord. 357 § 7, 2002).

5.05.080 License fees.

The annual license fees for businesses shall be set by resolution of the city council. The license fee for any new business that commences operations from a fixed address within the city on or after October 1st of any given year shall be set at one-half of the applicable annual license fee.

(Ord. 357 § 8, 2002).

5.05.090 Inspections-- Right of entry.

The ~~city clerk or~~ designee or authorized representative of the community development department, specifically including the building official or inspector, the code enforcement officer, the police department, or the fire district, are authorized to make such inspections of licensed premises and take such action as may be required to enforce the provisions of any business license or regulation ordinance.

(Ord. 423 § 5, 2004; Ord. 357 § 9, 2002).

5.05.100 Term of license.

All business licenses shall be effective for the calendar year of issuance. Licenses issued during a given calendar year shall be effective from the date of issue until December 31st of the same year. Unless renewed, as provided in this chapter, each business license shall expire and be of no force or effect on January 1st of the following year, unless sooner revoked as provided in this chapter.

(Ord. 357 § 10, 2002).

5.05.110 Renewal of license.

All business licenses shall be renewed on or before January 1st of the calendar year of issuance, if the business is to be continued. Application for renewal shall be made on forms prescribed by the ~~city clerk~~ designee.

(Ord. 357 § 11, 2002).

5.05.120 Posting of license.

It shall be unlawful for any person to engage in business at any location within the city without posting and displaying, prominently and in clear view, the valid business license authorizing such business at such location.

(Ord. 357 § 12, 2002).

5.05.130 Penalty for late application.

A. Any applicant or licensee who fails to make application for an original business license, or for renewal of an existing business license, prior to January 30th of the applicable year shall be subject to the following penalties based on the number of days delinquent:

General Business License

Application Date	Days Delinquent	Penalty
Jan. 1 – Jan. 30	0	0
Jan. 31 – Feb. 29	1 – 30 days	\$10.00
March 1 – March 30	31 – 60 days	\$20.00
March 31 – April 29	61 – 90 days	\$30.00
April 30+	91 +	Misdemeanor

Home Occupation Business License

Application Date	Days Delinquent	Penalty
Jan. 1 – Jan. 30	0	0
Jan. 31 – Feb. 29	1 – 30 days	\$5.00
March 1 – March 30	31 – 60 days	\$10.00
March 31 – April 29	61 – 90 days	\$15.00
April 30+	91 +	Misdemeanor

B. A one-time-only late fee waiver may be granted to businesses who may otherwise incur late fees, upon approval by the city clerk designee's office. The business owner shall write the city a letter explaining why the license renewal application is late and why the late fees should be waived. The city clerk or designee will review the letter and make a determination in writing as to whether the late fees should be paid.

(Ord. 425 § 1, 2004; Ord. 357 § 13, 2002).

5.05.140 Penalties and legal remedies.

A. Criminal Penalties. Any person who operates a business in the city of University Place without a valid business license shall be guilty of a misdemeanor and, upon conviction thereof, be punished as provided in RCW 9A.20.021(3).

B. Civil Penalties. Any person who fails to comply with the provisions of this chapter is, in addition to any criminal penalties, subject to a maximum civil penalty of \$500.00 for each day or portion of the day that the violation continues.

C. Other Legal Remedies. Nothing in this chapter limits the right of the city to pursue other lawful, criminal, civil or equitable remedies to abate, discontinue, correct or discourage unlawful acts under or in violation of this chapter.

(Ord. 357 § 14, 2002).

5.05.150 Mailing of notices.

Any notices required by this chapter to be mailed to any registrant or applicant shall be sent by ordinary mail, addressed to the address of the registrant or applicant, as shown by the records of the ~~city clerk~~ designee; or if no such address is shown, to such address the ~~city clerk~~ designee is able to ascertain by reasonable effort. Failure of the registrant or applicant to receive such mail notice shall not release the registrant or applicant from any fees or penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this chapter.

(Ord. 357 § 15, 2002).

5.05.160 Revocation– Suspension – Denial.

A registration issued under this chapter may be revoked, suspended, or denied for any one or more of the following reasons:

- A. Failure to comply with any federal, state, or local laws or regulations;
- B. Failure to comply with any of the terms and conditions imposed by the city on the issuance of the registration;
- C. Failure to pay any applicable tax, penalty, or fee imposed by the city;
- D. Failure to operate the business or activity in accordance with any federal, state or local law or regulation;
- E. Conduct of the business or activity in a manner which endangers the public health, welfare, or safety;
- F. When the registration was procured by fraud or false representation of facts;

G. When the registration was issued through mistake or inadvertence;

H. When the registration application contains false or misleading statements, evasions or suppression of material facts.

(Ord. 364 § 3, 2002; Ord. 357 § 16, 2002).

5.05.170 Effect of registration denial, revocation or suspension.

If any registrant has a business registration denied or revoked for any reason, a new business registration shall not be granted to the registrant and/or any entity in which the registrant has an ownership interest for a minimum period of one year from the date of such denial or revocation, and all business activity shall immediately cease from the date of such denial or revocation. The ~~city clerk~~ designee may suspend a license for no more than six months. During the period of any suspension, all business activity shall cease.

(Ord. 357 § 17, 2002).

5.05.180 Notice of hearing.

Prior to suspension or revocation of a registration under this chapter, the registrant shall be notified in writing of the grounds for suspension or revocation of the registration. Deposit in the U.S. Mail with postage prepaid of the notice of suspension or revocation by the ~~city clerk~~ designee shall constitute compliance with this section. Suspension or revocation of the registration shall occur 10 days after the date of the mailing of the notice of suspension or revocation ~~of the notice of suspension or revocation~~ unless such action is appealed by registrant in the manner described in this chapter.

(Ord. 357 § 18, 2002).

5.05.190 Appeal period.

A registrant under this chapter must appeal the decision for revocation, suspension, or denial within 10 days of the mailing of the notice of revocation, suspension, or denial by filing a notice of appeal with the ~~city clerk~~ designee. Upon receipt by the ~~city clerk~~ designee of the appeal notice, a hearing shall be held before a hearings examiner designated by the city. Notice of the hearing shall be given to the appellant at least 10 days prior to the hearing. At such hearing, the appellant shall be entitled to be heard and introduce evidence on his or her own behalf.

(Ord. 357 § 19, 2002).

5.05.200 Decision of the hearings examiner.

The decision of the hearings examiner shall be rendered within five days of the close of the hearing. The decision shall be in writing and shall:

- A. Affirm the ~~city clerk~~ designee's decision; or
- B. Revise or modify the ~~city clerk~~ designee's decision.

(Ord. 357 § 20, 2002).

5.05.210 Appeal to the superior court.

The decision of the hearings examiner is final unless an appeal of the decision of the hearings examiner is filed with superior court within 21 calendar days from the date the hearings examiner's decision was personally served upon or was mailed to the appellant. The decision for suspension or revocation of a license under this chapter shall be stayed during administrative and judicial review, but refusal to issue an initial license shall not be stayed.

(Ord. 357 § 21, 2002).

5.05.220 Emergency suspension.

In the event of conduct or activities which create an eminent risk of harm to public health, safety or welfare, the registration of such business may be summarily suspended upon notice to the registrant; provided, that the registrant shall be entitled to a hearing before a hearings examiner designated by the city upon a written appeal being filed with the ~~city clerk~~ designee by the registrant within 10 days of the registration suspension. In the event of an appeal by registrant, a hearing shall be provided within 10 days of notice of appeal. The provisions of UPMC 5.05.190 and 5.05.200 shall apply to any appeal of the hearings examiner decision regarding emergency suspensions.

(Ord. 357 § 22, 2002).

Chapter 5.10 SPECIAL EVENTS

Sections:

5.10.010 Purpose and policy.

5.10.020 Intent.

5.10.030 Definitions.

5.10.040 Exemptions.

5.10.160 Revocation or suspension.

A special events permit issued under this chapter shall be temporary, shall vest no permanent rights in the applicant, and may be immediately revoked or suspended by the Designee if:

- A. The applicant, in the information supplied, has made misstatement of material fact, the applicant has failed to fulfill a term or condition of the permit in a timely manner, or the check submitted by the applicant in payment of the fee for a permit has been dishonored;
- B. The applicant requests the cancellation of the permit or cancels the event;
- C. The activity endangers or threatens persons or property, or otherwise jeopardizes the health, safety, or welfare of persons or property;
- D. The activity conducted is in violation of any of the terms or conditions of the special events permit;
- E. An emergency or supervening occurrence requires the cancellation or termination of the event in order to protect the public health or safety;
- F. The city shall refund the permit fee in the event of a revocation caused by an emergency or supervening occurrence; the city shall refund the balance of the fee less its costs incurred if the cancellation occurs at the request of an applicant who is in compliance with this chapter.

(Ord. 109 § 16, 1996).

5.10.170 Penalty for violation.

Any person, association, firm, partnership, or corporation that violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine not to exceed \$1,000 or by imprisonment not exceeding 90 days or both such fine and imprisonment. Each day or portion of a day which a violation is committed constitutes a separate offense.

(Ord. 109 § 17, 1996).

Chapter 5.15

ADULT ENTERTAINMENT BUSINESSES

Sections:

5.15.010 Findings of fact.

5.15.020 Definitions.

5.15.030 License required.

5.15.040 Restrictions on issuing licenses.

5.15.050 Requirements for and processing of adult entertainment establishment license.

5.15.060 Requirements and processing of applications for manager or entertainer license.

5.15.070 License fees.

5.15.080 Appeal of the denial of the issuance or renewal of a license.

5.15.090 Standards of conduct and operation for live adult entertainment establishments.

5.15.100 License expiration.

5.15.110 License suspension or revocation.

5.15.120 Liquor Control Board rules.

5.15.130 Public nuisance.

5.15.140 Remedies not exclusive.

5.15.150 Violation – Penalty.

5.15.010 Findings of fact.

Based on public testimony, other evidence presented to it, and on the evidence considered by other cities which have investigated the impacts of live adult entertainment businesses establishments, the city council makes the following findings of fact:

A. The secondary effects of the activities defined and regulated in this chapter are detrimental to the public health, safety, morals, and general welfare of the citizens of the City of University Place and, therefore, such activities must be regulated.

B. Regulation of the adult entertainment industry is necessary because in the absence of such regulation significant criminal activity has historically and regularly occurred. This history of criminal activity in the adult entertainment industry has included prostitution, illegal employment of minors, narcotics and alcoholic beverage law violation, breaches of the peace, tax evasion, and the presence within the industry of individuals with hidden ownership interests and outstanding arrest warrants.

C. Proximity between entertainers and patrons during live adult entertainment performances can facilitate sexual contact, the spread of sexually transmitted diseases, prostitution, and other crimes. Concerns about crime, the transmission of diseases and public sexual activity are legitimate and compelling concerns of the city which demand reasonable regulation of live adult entertainment establishments to protect the public health, safety and general welfare.

D. The activities described in subsections (B) and (C) of this section occur, in the absence of regulation, regardless of whether the live adult entertainment is presented in conjunction with the sale of alcoholic beverages liquor.

E. It is necessary to license entertainers in the live adult entertainment industry to prevent the exploitation of minors, to ensure that each such entertainer is an adult, and to ensure that such entertainers have not assumed a false name, which would make regulation of the entertainer difficult or impossible.

F. It is necessary to have a licensed manager on the premises of live adult entertainment establishments at such times as such establishments are offering adult entertainment so that there will at all necessary times be an individual responsible for the overall operation of the adult entertainment establishment, including the actions of members of the public, entertainers and other employees.

G. The license fees required in this chapter are necessary as nominal fees imposed as necessary regulatory measures designed to help defray the substantial expenses incurred by the city in regulating the adult entertainment industry.

H. Hidden ownership interests for the purposes of skimming profits and avoiding the payment of taxes have historically occurred in the adult entertainment industry in the absence of regulation. These hidden ownership interests have historically been held by organized and white collar crime elements. For the city to effectively protect the public health, safety, morals and general welfare of its citizens and effectively allocate its law enforcement resources it is important that the city be fully apprised of the actual ownership of adult entertainment establishments, and identities and backgrounds of persons responsible for management and control of the live adult entertainment performed in those establishments.

I. It is not the intent of this chapter to suppress or censor any expressive activities protected by the First Amendment of the United States Constitution or Article 1, Section 5 of the Washington State Constitution, but rather to enact time, place and manner regulations which address the compelling interests of the city to mitigate the secondary effects of adult entertainment establishments while conforming with the standards described by the Washington Supreme Court in the case of Ino Ino, Inc. v. Bellevue.

(Ord. 173 § 1, 1997).

5.15.020 Definitions.

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

A. "Adult entertainment" shall mean:

1. Any exhibition, performance or dance of any type conducted in a commercial premises for a member of the public 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 below the top of the areola or any portion of the pubic region, anus, buttocks, vulva, or genitals, or human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

2. Any exhibition, performance or dance of any type conducted in a commercial premises for a member of the public 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, oral copulation, bestiality, or sodomy; or

c. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast; or

3. Any exhibition, performance or dance conducted in a commercial premises that is intended to sexually stimulate any member of the public. This includes, but is not limited to, any such exhibition, performance, or dance performed for, arranged with, or engaged in with fewer than all members of the public on the premises at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition, or dance. For purposes of example 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 entertainment establishment" shall mean any commercial premises to which the public is invited or admitted and where adult entertainment is provided on a regular basis and as a substantial part of the premises' activity.

C. "Applicant" shall mean the individual or entity seeking a live adult entertainment establishment license in the City of University Place.

D. "Applicant control persons" shall mean all partners, corporate officers, and Designees and any other individuals in the applicant's business organization who holds a significant

interest in the live adult entertainment business, based on responsibility for management of the live adult entertainment business establishment.

E. "~~Clerk~~" "Designee" shall mean ~~the city clerk the City Manager's Designee, or such other employee or agent of the City of University Place who is designated to administer this chapter.~~

F. "Employee" shall mean any and all persons, including managers, entertainers, and independent contractors, who work in or at or render any services directly related to the operation of any live adult entertainment establishment.

G. "Entertainer" shall mean any person who provides live adult entertainment within a live adult entertainment establishment, whether or not a fee is charged or accepted for such entertainment.

H. "Liquor" shall mean a beverage as defined in RCW 66.04.010.

I. "Live adult entertainment establishment" shall mean a commercial premises to which a member of the public is invited or admitted and where an entertainer provides live adult entertainment to a member of the public on a regular basis or as a substantial part of the premises activity.

J. "Manager" shall mean any person who manages, directs, administers, or is in charge of the affairs and/or the conduct of any portion of any activity involving live adult entertainment occurring at any adult entertainment establishment, and includes an assistant manager working with or under the direction of a manager to carry out such affairs or conduct.

K. "Member of the public" shall mean a customer, patron, club member, or person, other than an employee, who is invited or admitted to a live adult entertainment establishment.

L. "Nude" or "semi-nude" shall mean a state of complete or partial undress in such costume, attire, clothing so 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 human male genitals in a discernibly turgid state, even if completely and opaquely covered.

M. "Operator" shall mean any person operating, conducting, or maintaining a live adult entertainment establishment.

N. "Person" shall mean any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons, however organized.

O. "Sexual conduct" shall mean an act of:

1. Sexual intercourse within its ordinary meaning, occurring upon a penetration, however slight; or
2. A penetration of the vagina or anus, however slight, by an object; or
3. A contact between persons involving the sex organs of one person and the mouth or anus of another; or
4. Masturbation, manual or instrumental, of oneself or one person by another; or
5. Touching of the sex organs, anus, or female breasts, whether clothed or unclothed, of oneself or of one person by another.

(Ord. 173 § 2, 1997).

5.15.030 License required.

- A. A person may not conduct, manage or operate a live adult entertainment establishment unless the person is the holder of a valid and subsisting license from the city.
- B. An entertainer, employee or manager may not knowingly work in or about, or knowingly perform a service or entertainment directly related to the operation of, an unlicensed live adult entertainment establishment.
- C. An entertainer may not perform in a live adult entertainment establishment unless the person is the holder of a valid and subsisting license from the city.
- D. A manager may not work in a live adult entertainment establishment unless the person is the holder of a valid and subsisting license from the city.

(Ord. 173 § 3, 1997).

5.15.040 Restrictions on issuing licenses.

The ~~city clerk~~ designee may issue licenses as provided for in this chapter except:

- A. No license may be issued to a natural person who has not attained the age of 21 years with respect to live adult entertainment establishments where intoxicating liquors are served or provided;
- B. No license may be issued to a natural person who has not attained the age of 18 years with respect to live adult entertainment establishments where intoxicating liquors are not served or provided;
- C. No license may be issued to a person whose place of business is conducted by a manager or agent unless the manager or agent has obtained a manager's license;

D. No license may be issued to a partnership, unless all of the members of the partnership are qualified to obtain a license. The license must be issued to the manager or agent of the partnership; and

E. No license may be issued to a corporation, unless all of the officers and Designees of the corporation are qualified to obtain a license under this chapter. The license must be issued to the manager or agent of the corporation.

(Ord. 173 § 4, 1997).

5.15.050 Requirements for and processing of adult entertainment establishment license.

A. An application for a live adult entertainment establishment license shall be submitted to the ~~city clerk~~ designee in the name of the person or entity proposing to operate a live adult entertainment establishment on the business premises and shall be signed by such person and certified as true under penalty of perjury. An application shall be submitted on a form supplied by the city, which shall require the following information:

1. The name of the applicant, location and doing-business-as name of the proposed live adult entertainment establishment, including a legal description of the property, street address, and telephone number, together with the name and address of each owner and lessee of the property;
2. For the applicant and for each applicant control person, provide: names; any aliases or previous names, if any; driver's license number, if any; social security number, if any; and business, mailing, and residential address; and business telephone number;
3. If the applicant is a partnership, whether the partnership is general or limited, and if a corporation, date and place of incorporation; evidence that the partnership or corporation is in good standing under the laws of Washington; and name and address of the registered agent for service of process;
4. Whether the applicant or a partner, corporate officer, or Designee of the applicant holds another license under this chapter or a license for a similar live adult entertainment or sexually oriented business, including a motion picture theater and a panoram, whether from the City of University Place, another city, county, or state, and, if so, the name and address of each other licensed business;
5. A summary of the business history of the applicant and each applicant control person in owning or operating live adult entertainment or other sexually oriented businesses, providing names, addresses and dates of operation for such businesses, and whether any business license or live adult entertainment establishment license has been revoked or suspended, and the reason for the suspension or revocation;

6. For the applicant and all applicant control persons, any and all criminal convictions or forfeitures within five years immediately preceding the date of the application, other than parking offenses or minor traffic infractions including the dates of conviction, nature of the crime, name and location of court and disposition;

7. 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 the application;

8. Authorization for the city, its agents and employees to seek information to confirm any statements set forth in the application;

9. Two two-inch by two-inch color photographs of the applicant and applicant control persons, taken within six months of the date of application showing only the full face;

10. For the applicant and all applicant control persons, a complete set of fingerprints prepared at the Pierce County department of public safety or on forms prescribed by the department;

11. A scale drawing or diagram showing the configuration of the premises for the proposed live adult entertainment establishment, 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, rest rooms and service areas shall be clearly marked on the drawing. An application for a license for a live adult entertainment establishment shall include building plans which demonstrate conformance with the city's building codes;

12. The application must demonstrate compliance with the provisions of the city's zoning code concerning allowable locations for adult entertainment establishments.

B. An application shall be deemed complete upon the applicant's provision of all information requested above, including identification of "none" where that is the correct response, and the applicant's verification that the application is complete. The clerk designee may request other information or clarification in addition to that provided in a complete application where necessary to determine compliance with this chapter.

C. A nonrefundable application fee must be paid at the time of filing an application to defray the costs of processing the application.

D. Each applicant shall verify, under penalty of perjury, that the information contained in the application is true.

E. If, subsequent to the issuance of a live adult entertainment establishment license, any person or entity acquires a significant interest based on responsibility for management or operation of the business, notice of such acquisition shall be provided in writing to the city clerk designee no later than 21 days following such acquisition. The notice to the

clerk designee shall include the same information required for the original live adult entertainment establishment license application.

F. The adult entertainment establishment 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 live adult entertainment establishment. The license shall be posted in a conspicuous place at or near the entrance to the adult entertainment establishment so that the license can be easily read at any time the business is open.

G. A person granted a live adult entertainment establishment license pursuant to this chapter shall not operate the live adult entertainment establishment under a name not specified on the license, nor shall a person operate a live adult entertainment establishment under a designation or at a location not specified on the license.

H. Upon receipt of the complete application and fee, the clerk designee shall provide copies to the police, the fire district, and the city's permit center for their investigation and review to determine compliance of the proposed adult entertainment establishment with the laws and regulations which each department administers. Each department shall, within 30 days of the date of application, inspect the application and premises and shall make a written report to the clerk designee whether such application and premises complies with the laws administered by each department. No license may be issued unless each department reports that the application and premises comply with the relevant laws. If the premises is not yet constructed, the departments shall base their recommendation as to premises compliance on their review of the drawings submitted in the application. Any adult entertainment establishment license approved prior to the construction of the premises shall contain a condition that the premises may not be open for business until the premises have been inspected and determined to be in substantial conformance with the drawings submitted with the application. A department shall recommend denial of a license under this subsection if it finds that the proposed live adult entertainment establishment is not in conformance with the requirements of this chapter or other ordinances of the city. A recommendation for denial shall cite the specific reason therefor, including applicable laws.

I. A live adult entertainment establishment license shall be issued by the clerk designee within 30 days of the date of the filing a complete license application and fee, unless the clerk designee determines that the applicant has failed to meet any of the requirements of this chapter, failed to provide information required under this section, or made a false, misleading or fraudulent statement of material fact on the application for a license. The clerk designee shall grant an applicant's request for a reasonable extension of time in which to provide all information required for a complete license application. If the clerk designee finds that the applicant has failed to meet any of the requirements for issuance of a live adult entertainment establishment license, the clerk designee shall deny the application in writing and shall cite the specific reasons therefor, including applicable law. If the clerk designee fails to issue or deny the license within 30 days of the date of filing of a complete application and fee, the applicant shall be permitted, subject to all

other applicable laws, to operate the business for which the license was sought until notification by the ~~clerk~~ designee that the license has been denied, but in no event may the ~~clerk~~ designee extend the application review time for more than an additional 20 days.

(Ord. 173 § 5, 1997).

5.15.060 Requirements and processing of applications for manager or entertainer license.

A. No person shall work as a manager, assistant manager or entertainer at a live adult entertainment establishment without a valid and subsisting manager's or entertainer's license issued by the city. All applications for a manager's or entertainer's license shall be signed by the applicant and notarized or certified to be true under penalty of perjury. All applications shall be accompanied by a nonrefundable application fee. The ~~clerk~~ designee shall submit the license application to the city police for review, investigation and recommendation. All applications shall be submitted on a form supplied by the city, which shall require the following information:

1. The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by the Pierce County department of public safety at its headquarters or any of its precincts, social security number, and any stage names or nicknames used in entertaining.
2. The name and address of each live adult entertainment establishment at which the applicant intends to work.
3. Documentation that the applicant has attained the age of 18 years. Any two of the following shall be accepted as documentation of age:
 - a. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;
 - b. A state-issued identification card bearing the applicant's photograph and date of birth;
 - c. An official passport issued by the United States of America;
 - d. An immigration card issued by the United States of America; or
 - e. Any other identification that the city determines to be acceptable.
4. A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions.

5. A description of the applicant's principal activities or services to be rendered.
6. Two two-inch by two-inch color photographs of the applicant, taken within six months of the date of application, showing only the full face.
7. Authorization of the city, its agents and employees to investigate and confirm any statements set forth in the application.

B. The clerk designee may request additional information or clarification when necessary to determine compliance with this chapter.

C. Every adult entertainer shall provide his or her license to the live adult entertainment establishment manager on duty on the premises prior to the entertainer's performance. The manager shall retain the licenses of the adult entertainers readily available for inspection by the city at any time during business hours of the adult entertainment establishment.

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

E. An applicant for an adult entertainer's license shall be issued a temporary license upon receipt by the city of a complete license application and fee. The temporary license automatically expires on the fourteenth day following the filing of the complete application and fee unless the clerk designee fails to approve or deny the application, in which case the temporary license is valid until the clerk designee approves or denies the application or until the final determination of an appeal from a denial of the application. The clerk designee may not extend the application review time for more than an additional 20 days.

(Ord. 173 § 6, 1997).

5.15.070 License fees.

The city council shall by resolution fix the fees for live adult entertainment establishment licenses, live adult entertainment manager's licenses, and live adult entertainer's licenses. The license fee shall be based on the costs to the city to process and investigate license applications and to enforce the licensing provisions of this chapter.

(Ord. 173 § 7, 1997).

5.15.080 Appeal of the denial of the issuance or renewal of a license.

A. An applicant may appeal the action of the clerk designee in refusing to issue or renew a license under this chapter. The applicant must file a notice of appeal with the clerk designee within 10 days of issuance of the notice of refusal to issue or renew. Appeals shall be heard by a hearings examiner. The hearing must be held within 30 days of the filing of the notice of the appeal. At the hearing, the appellant and other interested persons may appear and be heard, subject to the rules of the hearings examiner. The hearings examiner shall render a decision in writing within 15 days of the close of the hearing.

B. An applicant may appeal a decision of the hearings examiner rendered under subsection (A) of this section by filing a petition for a writ of certiorari, prohibition or mandamus in the Pierce County superior court within 10 days of the date the decision of the hearings examiner is mailed to the applicant.

(Ord. 173 § 8, 1997).

5.15.090 Standards of conduct and operation for live adult entertainment establishments.

A. An employee of a live adult entertainment establishment must adhere to the following standards of conduct while in an area in which a member of the public is allowed to be present:

1. An employee shall not 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 eight feet from the nearest member of the public.

2. An employee or entertainer mingling with a member of the public shall not be unclothed or in less than opaque and complete attire, costume, or clothing as described in subsection (A)(1) of this section, nor shall any male employee at any time appear with his genitals in a discernibly turgid state, even if completely and opaquely covered, or wear or use any device or covering which simulates the same.

3. An employee or entertainer mingling with a member of the public shall not wear or use any device or covering exposed to view which simulates the female breast below the top of the areola, vulva, genitals, anus, or buttocks.

4. An employee or entertainer shall not caress, fondle, or erotically touch a member of the public or another employee. An employer shall not encourage or permit any patron to caress, fondle, or erotically touch an employee.

5. An employee or entertainer shall not perform an actual or simulated act of sexual conduct or an act which constitutes a violation of Chapter 7.48A RCW, the Washington Moral Nuisances Statute, or any ordinance of the city regulating offenses against public morals.

6. An employee mingling with a member of the public shall not conduct a dance, performance, or exhibition in or about the nonstage area of the live adult entertainment establishment unless that dance, performance, or exhibition is performed at a distance of at least ten feet from the member of the public for whom the dance, performance, or exhibition is performed. The distance of ten feet is measured from the torso of the dancer to the torso of the member of the public.

7. A tip or gratuity offered to or accepted by an entertainer shall not be offered or accepted prior to any performance, dance, or exhibition provided by the entertainer. An entertainer performing upon any stage area shall not accept any form of gratuity offered directly to the entertainer by a member of the public. A gratuity offered to an entertainer performing upon a stage area must be placed into a receptacle provided for receipt of gratuities by the management of the live adult entertainment establishment or provided through a manager on duty on the premises. A gratuity or tip offered to an entertainer conducting a performance, dance, or exhibition in or about the nonstage area of the adult entertainment establishment shall be placed into the hand of the entertainer or into a receptacle provided by the entertainer, and not be placed upon the person or into the clothing of the adult entertainer.

B. At a live adult entertainment establishment the following are required:

1. Admission must be restricted to persons of the age of 18 years or older. An owner, operator, manager, or other person in charge of a live adult entertainment establishment may not knowingly permit or allow a person under the age of 18 years to be in or upon the premises;

2. Neither the performance, nor any photograph, drawing, sketch, or other pictorial or graphic representation of the performance, displaying a portion of the breasts below the top of the areola or a portion of the pubic hair, buttocks, genitals or anus may take place or be located so as to be visible to a minor who is or might be outside of the live adult entertainment establishment; and

3. A member of the public shall not be permitted to enter into a nonpublic portion of the live adult entertainment establishment that includes but is not limited to the dressing rooms of the entertainers, other rooms provided for the benefit of employees, or the kitchen or storage areas. However, a person delivering goods and materials, food and beverages, or performing maintenance or repairs to the premises or equipment on the premises may be permitted into a nonpublic area to the extent required to perform the person's job duties.

C. The responsibilities of the manager of a live adult entertainment establishment include but are not limited to:

1. A licensed manager shall be on duty at a live adult entertainment establishment at all times while either adult entertainment is being provided or members of the public are present on the premises. The name and the license of the manager must be prominently posted during business hours. The manager is responsible for verifying that a person who provides adult entertainment within the premises possesses a current and valid entertainer's license issued by the city.

2. The licensed manager on duty shall not be an entertainer.

3. The manager or an assistant manager licensed under this chapter must maintain visual observation of each member of the public at all times an entertainer is present in the public or performance areas of the live adult entertainment establishment. If there is more than one performance area, or the performance area is of such a size or configuration that one manager or assistant manager is unable to visually observe, at all times, such entertainer, each employee, and each member of the public, a manager or assistant manager licensed under this chapter must be provided for each public or performance area or portion of a public or performance area visually separated from other portions of the live adult entertainment establishment.

4. The manager is responsible for and must ensure that the actions of members of the public, the entertainers, and all other employees comply with this chapter.

D. The performance area of the live adult entertainment establishment must meet the following requirements:

1. The performance area of the live adult entertainment establishment where adult entertainment is provided 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 eight feet from all areas of the premises to which a member of the public has access. A continuous railing affixed to the floor and measuring at least three feet in height and located at least eight feet from all points of the performance area must be installed on the floor of the premises to separate the performance area and the patron seating areas. The stage and the entire interior 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 by doors, curtains, drapes, or any other obstructions.

2. Sufficient lighting shall be provided in and equally distributed in throughout the public areas of the premises so that all objects are plainly visible at all times. The minimum lighting level shall be such that in any part of the premises which is open to members of the public, a program, menu, or list printed in eight point type will be readable by the human eye with 20/20 vision from two feet away.

3. A sign at least two feet by two feet with letters at least one inch high must be continuously displayed in the public area of the premises stating the following:

E. This live adult entertainment establishment is regulated by ordinances of the City of University Place. Entertainers are:

1. Not permitted to engage in any type of sexual conduct.
2. Not permitted to appear semi-nude or nude, except on stage.
3. Not permitted to accept tips or gratuities in advance of their performance.
4. Not permitted to accept tips or gratuities directly from patrons while performing upon any stage area.

~~4-a.~~ 5. All papers, records, and things required to be kept under this chapter must be open to inspection by the clerk designee during the hours the licensed premises are open for business, upon two days' written notice. The purpose of the inspections must be to determine whether the papers, records, and things meet the requirements of this chapter.

b. a. A live adult entertainment establishment must maintain and retain for a period of two years the name, address, and age of each person employed or otherwise retained or allowed to perform on the premises as an entertainer, including independent contractors and their employees. This information must be open to inspection by the clerk designee during hours of operation of the business upon 24 hours' notice to the licensee.

~~5-~~ 6.. In order to ensure compliance with this chapter, all areas of a licensed live adult entertainment establishment that are open to a member of the public must be open to inspection by agents and employees of the city during the hours the premises are open for business. The purpose of the inspections must be to determine if the licensed premises are operated in accordance with this chapter. Unannounced inspections are necessary to ensure compliance with this chapter.

E. F. A live adult entertainment establishment may not be operated or otherwise open to the public between the hours of 2:00 a.m. and 10:00 a.m.

F. G. 1-

1. This chapter does not prohibit:

- a. Plays, operas, musicals, or other dramatic works which are not obscene;
- b. Classes, seminars and lectures held for serious scientific or educational purposes and which are not obscene; or
- c. Exhibitions, performances, expressions, or dances which are not obscene.

2. The exemptions in subsection (F)(1) of this section does not apply to sexual conduct as defined in UPMC 5.15.020 or the sexual conduct described in RCW 7.48A.010(2)(b)(ii) and (iii).

3. Whether or not activity is obscene shall be determined by considerations of the standards set forth in RCW 7.48.010(2).

(Ord. 229 § 1, 1999; Ord. 173 § 9, 1997).

5.15.100 License expiration.

A. Every license issued under this chapter shall expire on the thirty-first day of December of each year. A license fee shall not be prorated, except that if the original application for license is made subsequent to June 30th then one-half of the annual license fee may be accepted for the remainder of the year. A license issued under this chapter is not assignable.

B. Application for renewal of a license issued under this chapter must be made to the clerk designee no later than 30 days before the expiration of a live adult entertainment establishment license and no later than 14 days before the expiration for live adult entertainment manager's and entertainer's licenses. The clerk designee shall issue the renewal license in the same manner and on payment of the same fees as for an original application under this chapter. The clerk designee shall assess and collect an additional charge, computed as a percentage of the license fee, on an application not made on or before the date as follows:

Days Past Due Additional Percentage of License Fees

7 – 30	25
31 – 60	50
61 and over	75

C. The clerk designee shall renew a license upon application; provided, that the application complies with the requirements of this chapter unless the clerk designee is aware of a fact that would disqualify the applicant from being issued the license for which the applicant seeks renewal.

D. The ~~clerk~~ designee shall provide written notice to the licensee of the decision to not renew a license. The notice must include the reason for the decision to not renew and inform the licensee of the right to appeal the decision to the hearings examiner.

(Ord. 173 § 10, 1997).

5.15.110 License suspension or revocation.

A. The ~~clerk~~ designee may, at any time upon the recommendation of the law enforcement agency of the city, and as provided below, suspend or revoke any license issued under this chapter:

1. If the 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 by the licensee or by the licensee's servant, agent, or employee when the licensee knew or should have known of the violations committed by the servant, agent, or employee; or
3. For the conviction of the licensee of a crime or offense involving prostitution, promoting prostitution, a liquor law violation, a transaction involving controlled substances, as defined in Chapter 69.50 RCW, or a violation of Chapter 9.68A RCW, committed on the premises, or the conviction of the licensee's servant, agent, or employee of any crime or offense involving prostitution, promoting prostitution, a liquor law violation, or transactions involving controlled substances, as defined in Chapter 69.50 RCW, committed on the premises in which the licensee's live adult entertainment establishment is conducted when the licensee knew or should have known of the violations committed by the servant, agent, or employee. A license may be suspended or revoked under this subsection only if the conviction of the crime or offense occurred within 24 months of the decision to suspend or revoke the license.

B. The ~~clerk~~ designee shall revoke a license procured by fraud or misrepresentation. If another violation of this chapter or other applicable ordinance, statute, or regulation is found, the license shall be suspended for 30 days upon the first violation, 90 days upon the second violation with a 24-month period, and revoked for a third and subsequent violations within a 24-month period, not including a period of suspension.

C. The ~~clerk~~ designee shall provide at least 10 days' prior written notice to the licensee of the decision to suspend or revoke the license stating the reasons for the decision to suspend or revoke. The notice shall inform the licensee of the right to appeal the decision to the hearings examiner and shall state the effective date of such revocation or suspension. A licensee who wishes to appeal the ~~clerk's~~ designee's decision must file a notice of appeal with the ~~clerk~~ designee within 10 days of the ~~clerk's~~ designee's notice of the decision to suspend or revoke the license. The hearing must be conducted within 45 days of the filing of the notice of appeal under the rules and procedures of the city's hearings examiner. The hearings examiner shall render a decision within 15 days following the close of the appeal hearing. A person aggrieved by the decision of the

hearings examiner and wishing to appeal that decision must seek review in the Pierce County superior court by filing a petition for writ of certiorari, prohibition or mandamus within 10 days of the date the hearings examiner's decision was mailed to the applicant. The decision of the ~~clerk~~ designee must be stayed during the pendency of an appeal under this chapter except as provided in subsection (D) of this section.

D. If the University Place building official, or fire marshal or the Pierce County health department find that a condition exists upon the premises of a live adult entertainment establishment which constitutes a threat of immediate serious injury or damage to persons or property, the official may immediately suspend a license issued under this chapter pending a hearing in accordance with subsection (C) of this section. The official shall issue a notice setting forth the basis for the action and the facts that constitute a threat of immediate serious injury or damage to persons or property, and informing the licensee of the right to appeal the suspension to the hearings examiner under the same appeal provisions set forth in subsection (C) of this section. However, a suspension based on threat of immediate serious injury or damage shall not be stayed during the pendency of the appeal.

(Ord. 173 § 11, 1997).

5.15.120 Liquor Control Board rules.

A license issued under this chapter is subject to the rules of the Washington State Liquor Control Board relating to the sale of intoxicating liquor. If there is a conflict between this chapter and the applicable rules of the Washington State Liquor Control Board, the rules of the Washington State Liquor Control Board control.

(Ord. 173 § 12, 1997).

5.15.130 Public nuisance.

A. A live adult entertainment establishment operated, conducted or maintained in violation of this chapter or another ordinance of the city or of the state of Washington is unlawful and a public nuisance. The city may, in addition to or in lieu of other remedies in this chapter, commence an action to enjoin, remove, or abate the nuisance in the manner provided by law and shall take such other steps and apply to such court or courts as have jurisdiction to grant such relief as will abate or remove the public nuisance, and restrain and enjoin any person from operating, conducting, or maintaining a live adult entertainment establishment contrary to this chapter.

B. A live adult entertainment establishment operated, conducted or maintained contrary to Chapter 7.48 RCW is unlawful and a public and moral nuisance and the city may, in addition to or in lieu of other remedies in this chapter, commence an action to abate, remove, or enjoin the public and moral nuisance, or impose a civil penalty, in the manner provided for in Chapter 7.48A RCW.

(Ord. 173 § 14, 1997).

5.15.140 Remedies not exclusive.

The remedies found in this chapter are not exclusive and the City may seek other legal or equitable relief, including but not limited to enjoining an act or practice that constitutes or will constitute a violation of a business license ordinance or other regulation of this chapter.

(Ord. 173 § 15, 1997).

5.15.150 Violation– Penalty.

Any person violating any of the terms of this chapter shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine of up to \$1,000, or by imprisonment of up to 90 days, or by both such fine and imprisonment.

(Ord. 173 § 13, 1997).

Chapter 5.20 PANORAM DEVICES

Sections:

5.20.010 Findings of fact.

5.20.020 Definitions.

5.20.030 Panoram premises license required.

5.20.040 Panoram device license required.

5.20.050 Panoram operator's license required.

5.20.060 License fee – Terms – Assignment – Renewals.

5.20.070 License application – Report by city departments.

5.20.080 Issuance of licenses.

5.20.090 Suspension or revocation of licenses – Notices – Summary suspension.

5.20.100 Appeal and hearing.

5.20.110 Premises regulations.

5.20.120 Unlawful acts.

5.20.130 Violations and penalties.

5.20.140 Compliance.

5.20.150 Severability.

5.20.010 Findings of fact.

The City of University Place takes notice and specifically relies upon the experiences of and studies utilized by other cities and counties in combating the specific adverse impacts of sexually-oriented businesses including panoram or "peep show" establishments. This includes, but is not limited to, the studies relied upon, findings of fact entered by and litigation involving the cities of Federal Way, Tukwila, SeaTac and Shoreline in their respective panoram ordinance provisions.

(Ord. 175 § 1, 1997).

5.20.020 Definitions.

As used in this chapter, the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

A. "Applicant" means the individual or entity seeking any form of panoram license in the City of University Place.

B. "Applicant control persons" means all partners, corporate officers and Designees and any other individuals in the applicant's business organization who hold a significant interest in the panoram business, based on responsibility for management or control of the panoram business, regardless of whether such person's name appears on corporate filings, license applications, or other official documents of the applicant.

C. ~~"Clerk"~~ Designee shall means the ~~City of University Place city clerk or such other employee or agent of the city who acts as the licensing official under this chapter.~~ the City Manager's Designee.

D. "Panoram," "preview," "picture arcade" or "peep show" means any device which, for payment of a fee, membership fee or other charge, is used to view, exhibit or display a film or videotape. All such devices are denominated in this chapter by the terms "panoram" or "panoram device." 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.

E. "Panoram premises" means any premises or portion of 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.

F. "Panoram station" means a portion of any panoram premises on which a panoram device is located and where a patron or customer would ordinarily be positioned while watching the panoram device.

(Ord. 175 § 1, 1997).

5.20.030 Panoram premises license required.

A. It is unlawful to display, exhibit, expose or maintain any panoram device upon any premises to which members of the public are admitted unless there is a valid and current panoram premises license for such premises.

B. A separate panoram premises license is required for each panoram premises and the same shall at all times be conspicuously posted and maintained therein.

C. The clerk designee shall prescribe the form of such license, number the same, and shall indicate thereon the number of panoram devices which may be operated thereunder, and the location of the license panoram premises.

(Ord. 175 § 1, 1997).

5.20.040 Panoram device license required.

A. It is unlawful to exhibit or display for public use any panoram device upon any panoram premises without first having obtained a panoram device license for each such panoram device.

B. Panoram device licenses shall be issued for specific panoram premises only and shall not be transferable.

C. The current panoram device license for each panoram device shall be securely attached to each panoram device in a conspicuous place.

D. The clerk designee shall prescribe the form of such license and number the same.

(Ord. 175 § 1, 1997).

5.20.050 Panoram operator's license required.

It is unlawful to own and exhibit or display for public use, or to place with another, by lease or otherwise, for public use, exhibit or display, any panoram device without a valid and current panoram operator's license. The clerk designee shall prescribe the form of such license and shall number the same.

(Ord. 175 § 1, 1997).

5.20.060 License fee— Terms – Assignment – Renewals.

A. The license year for licenses under this chapter shall be from January 1st to December 31st. All licenses under this chapter shall expire on December 31st of each year. Except as hereinafter provided, all license fees under this chapter shall be payable on an annual basis. Annual license fees shall be as follows:

1. Panoram premises license – \$200.00 per year;
2. Panoram device license – \$50.00 per year for each device; and
3. Panoram operator license – \$500.00 per year.

B. License fees under subsection (A) of this section shall not be prorated, except that if the original application of a license is made subsequent to June 30th in any year, the license fee for the remainder of that year shall be one-half of the annual license fee. Licenses issued under this chapter may not be assigned or transferred to other premises, operators or devices.

C. On or before December 31st of each year, a licensee under this chapter shall file an application for renewal of each license he wishes to use in the next license year. An application for renewal of a license shall be filed in the same manner as an original application for such a license and shall be accompanied by a renewal fee in an amount equal to the license fee applicable to an original application for such a license under this section. On renewal applications filed after December 31st, the clerk designee shall assess and collect an additional charge as follows:

1. If the application is more than six but less than 31 days late, the additional charge is 10 percent of the renewal fee; and
2. If the application is more than 30 but less than 61 days late, the additional charge is 25 percent of the renewal fee.

(Ord. 175 § 1, 1997).

5.20.070 License application– Report by city departments.

A. Any person seeking a panoram premises license, panoram operator's license or panoram device license shall file a written application with the clerk designee on a form provided by the clerk designee for that purpose.

The clerk designee, upon presentation of a complete application, shall refer such application to the police department and other appropriate city departments or contractors for a full investigation as to the truth of the statements contained therein and as to any or

all other matters which would aid the ~~clerk~~ designee in determining compliance with this chapter and other applicable law. Upon receipt of any complete application for a license, the ~~clerk~~ designee shall further issue a temporary license, pending disposition of the application or the completion of the term of any license suspension issued pursuant to this chapter. The temporary license shall expire upon issuance of a license or renewal thereof or notice of nonissuance. The holder of a temporary license is subject to all requirements, standards, and penalty provisions of this chapter.

B. Applicants for any license or renewal thereof under this chapter shall provide information as follows:

1. With each application for a panoram premises license or renewal thereof, applicants shall provide:

- a. The name, address and telephone number of each person applying for the license;
- b. The name, address and telephone number of each person holding an ownership, leasehold or interest in the panoram premises;
- c. The name, address and telephone number of the manager or other person responsible for the operation of the premises;
- d. The address of the premises;
- e. The number of panoram devices to be located on the premises; and
- f. A sketch or drawing sufficient to show the layout of the premises, including all information necessary to determine whether the premises complies with the provisions of this chapter.

2. With each application for a panoram device license or renewal thereof, applicants shall provide:

- a. The name, address and telephone number of each person applying for the license;
- b. The name, address and telephone number of each person holding an ownership, leasehold or other interest in the panoram device;
- c. The name, address and telephone number of each person responsible for the operation of the panoram device;
- d. The address at which the panoram device is to be located; and
- e. A description of the panoram device, including make, model and serial number.

3. With each application for a panoram operator's license or renewal thereof, applicants shall provide:

a. For the applicant and for each applicant control person: names; any aliases or previous names; driver's license number, if any; social security number, if any; business, mailing, and residential address; and business and residential telephone number.

b. If a partnership, whether general or limited, provide for all general partners the same information required under subsection (3)(a) of this section.

c. If a corporation, date and place of incorporation, evidence that it is in good standing under the laws of Washington, and name and address of any registered agent for service of process.

d. Whether the applicant or any partner, corporate officer, or Designee of the applicant holds any other licenses under this chapter or any license for similar adult entertainment or sexually oriented business, including motion picture theaters and panorams, from the city or another city, county or state, and if so, the names and addresses of each other licensed business.

e. A summary of the business history of the applicant and applicant control persons in owning or operating the adult entertainment or other sexually oriented businesses, providing 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.

f. For the applicant and all applicant control persons, any and all criminal convictions or forfeitures within five years immediately preceding the date of the application, other than parking offenses or minor traffic infractions, including the dates of conviction, nature of the crime, name and location of court and disposition.

g. 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 the application.

h. The location and doing-business-as name of the proposed adult cabaret, including a legal description of the property, street address, and telephone number, together with the name and address of each owner and lessee of the property.

i. Two two-inch by two-inch color photographs of the applicant and applicant control persons, taken within six months of the date of application showing only the full face.

j. A complete set of fingerprints for the applicant or each applicant control person, taken by University Place police department employees (or Pierce County sheriff's department employees).

(Ord. 175 § 1, 1997).

5.20.080 Issuance of licenses.

A. Upon receipt of any application, the elerk designee shall issue a temporary license or renewal thereof, pursuant to UPMC 5.20.070, or notice of nonissuance and the reasons therefor.

B. The elerk designee shall issue the permanent license or licenses applied for if and only if, after an investigation, the elerk designee finds:

1. That the business for which a license is required herein will be conducted in a building, structure and location which complies with the requirements and standards of this chapter; and
2. That the applicant, his or her employee, agent, partner, Designee, officer, stockholder or manager has not knowingly made any false, misleading or fraudulent statement of material fact in the application for a license, or in any report or record required to be filed with the elerk designee.

(Ord. 175 § 1, 1997).

5.20.090 Suspension or revocation of licenses– Notices – Summary suspension.

The elerk designee may, upon 10 days' notice, temporarily suspend or permanently revoke any license issued pursuant to this chapter where one or more of the following conditions exist:

- A. The license was procured by fraud or misrepresentation of a material fact in the application or in any report or record required to be filed with the elerk designee; or
- B. The building, structure, equipment or location of the business for which the license was issued does not comply with the requirements or the standards of this chapter; or
- C. The licensee, his or her employee, agent, partner, Designee, officer or manager has knowingly allowed or permitted in or upon the panoram premises any violations of this chapter or acts made unlawful under this chapter.

(Ord. 175 § 1, 1997).

5.20.100 Appeal and hearing.

A. Any person aggrieved by the action of the elerk designee in refusing to issue or renew any license under this chapter or in temporarily suspending or permanently revoking any license under this chapter shall have the right to appeal such action to the city hearings

examiner, or to such other hearing body as may hereafter be established by the city council for the hearing of such appeals, by filing a notice of appeal with the ~~clerk~~ designee within 10 days of receiving notice of the action from which appeal is taken. The filing of such appeal shall stay the action of the ~~clerk~~ designee.

B. The hearing body, upon receipt of a timely notice of appeal, shall set a date for a hearing of such appeal within 30 days from the date of such receipt, unless extended by mutual agreement or for good cause shown. The hearing shall be de novo. The hearing body shall hear testimony, take evidence and may hear oral argument and receive written briefs.

C. The decision of the hearing body on an appeal from a decision of the ~~clerk~~ designee shall be based upon a preponderance of the evidence. The burden of proof shall be on the city.

D. Any person aggrieved by the decision of the hearings examiner or other designated hearing body shall have the right to appeal the decision to the superior court by writ of certiorari filed and served upon the city within 14 calendar days after the date of the hearings examiner's or other hearing body's decision.

(Ord. 175 § 1, 1997).

5.20.110 Premises regulations.

It shall be unlawful and a violation of this chapter for a panoram operator, or anyone owning or controlling a panoram premises, to cause, maintain, or permit to exist any condition in violation of this section; and the ~~clerk~~ designee shall not license any panoram premises which do not conform to the requirements of this section, and shall revoke or suspend the license of any panoram premises, and the license of any operator thereof, which do not maintain conformity with these requirements.

A. The interior of every panoram station shall be visible from a continuous main aisle and shall not be obscured by any curtain, door, wall, or other form of partition or enclosure.

B. The panoram stations on any panoram premises shall be separated by partitions constructed of wood or other solid and opaque material. No openings in such partitions for ventilation or other purposes shall extend higher than 12 inches from the floor or lower than 84 inches from the floor. Any such opening shall be covered with a permanently affixed wire mesh or other cover not capable of penetration by solid matter.

C. The licensee shall not permit any doors to other areas on the premises which are available for use by persons other than the licensee or employees of the licensee to be locked during business hours.

D. The licensee shall maintain illumination equally distributed in all parts of the premises available for use by the public at all times when the premises are open or when any member of the public is permitted to enter and remain therein.

E. The entire floor area of a panoram booth or stall must be level with the continuous main aisle. No steps, ramps or risers are allowed in any such booth or stall.

F. The licensee shall permanently post and maintain on the interior and exterior of each booth or stall on the panoram premises a sign with two-inch lettering on a contrasting background stating:

Occupancy of this booth is at all times limited to only one person.
Violations are subject to criminal prosecution.

G. The licensee shall not operate or maintain any warning system or device, of any nature or kind, for the purpose of warning customers or patrons or any other persons occupying panoram booths or stalls located on the licensee's premises that police officers or city health, fire, licensing or building inspectors are approaching or have entered the licensee's premises.

H. A licensed panoram operator shall be on the premises at all times that the panoram premises is open to the public for business.

I. No person under the age of 18 shall be permitted to enter any panoram premises.

(Ord. 175 § 1, 1997).

5.20.120 Unlawful acts.

A. A panoram station subject to the requirements of this chapter may only be occupied by one person at any one time. It is unlawful for any person to occupy such a booth or stall at the same time it is occupied by any other person.

B. It is unlawful to stand or kneel on any chair or seating surface in a panoram booth or stall.

C. It is unlawful for any owner, operator, manager, employee or other person in charge of premises for which a panoram location license is required to warn, aid and abet the warning of, customers or patrons or any other persons occupying panoram booths or stalls located on the licensee's premises that police officers or health, fire, licensing or building inspectors are approaching or have entered the licensee's premises.

D. It is unlawful within any panoram premises for any person to masturbate, or expose to view any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, penis, vulva or genitals.

(Ord. 175 § 1, 1997).

5.20.130 Violations and penalties.

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this chapter, including the premises regulations enumerated in UPMC 5.20.110, shall upon conviction thereof be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000, or by imprisonment of a period of not more than 90 days, or by both such fine and imprisonment.

Each such person shall be guilty of a separate offense for each and every day, or part of day, during which any violation of any provision of this chapter is committed, continued, or permitted. In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter shall be deemed a public nuisance and may be abated as such, and each day that such condition continues shall be regarded as a new and separate offense. All costs expended by the city in any such nuisance abatement or other action, including police investigation costs and attorney fees, shall be recoverable as part of any judgment in the city's favor.

(Ord. 175 § 1, 1997).

5.20.140 Compliance.

All persons and premises regulated pursuant to this chapter shall comply with this chapter within 30 days of the effective date of the ordinance codified in this chapter.

(Ord. 175 § 1, 1997).

5.20.150 Severability.

Should any section, paragraph, sentence, clause or phrase of this chapter, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this chapter be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this chapter or its application to other persons or circumstances.

(Ord. 175 § 1, 1997).

Chapter 5.25 PEDDLER/SOLICITOR/MASTER SOLICITOR LICENSE REQUIRED

Section:

5.25.010 Definitions.

5.25.020 Peddler/solicitor/master license required.

5.25.030 Processing procedure.

5.25.040 License - applicant investigation.

5.25.050 License fee.

5.25.060 License, or facsimile copy carried on person.

5.25.070 Hours during which peddling is allowed.

5.25.080 Unlawful to peddle or solicit on posted premises.

5.25.090 Exemptions.

5.25.100 Penalties & violations.

5.25.010 Definitions.

Terms used in this title shall have the following meanings:

A. "Peddler" means any person who goes from house to house, or place to place, within the city of University Place, selling and providing immediate delivery or performance, or offering for sale and immediate delivery or performance, any goods, wares, merchandise, services, or anything of value, to persons not commercial users or sellers of such commodities or services.

B. "Solicitor" means any person who goes from house to house or place to place within the city of University Place, taking or offering to take orders for the sale of goods, wares, merchandise, services, or anything of value for future delivery or performance from persons not commercial users or sellers of such commodities or services.

C. "Master solicitor" means any person or firm that employs or uses agents or employees to act as solicitors or peddlers.

D. The terms "peddler" or "solicitor" shall not include any person making solicitations for charitable or religious purposes or while exercising political free speech.

(Ord. 286 § 1, 2000).

5.25.020 Peddler/solicitor/master license required.

No person shall perform peddling or soliciting activities within the city unless he or she or his or her employer has first been issued a peddler/solicitor or master solicitor license, unless such activity is exempt as provided in this chapter.

(Ord. 286 § 2, 2000).

5.25.030 Processing procedure.

The ~~city clerk~~ designee shall issue individual peddler and solicitor's, or master solicitor licenses in the name of the city to all persons qualified under the provisions of this chapter and shall:

- A. Adopt all forms and prescribe the information required to implement this chapter.
- B. Submit all applications to the chief of police for an investigation as set forth in UPMC 5.25.040.
- C. Submit all applications to the community development department, and/or the fire district, as necessary, for their endorsements as to compliance by applicant with all city regulations which they have the duty of enforcing.
- D. Notify any applicant of the acceptance or rejection of this application and shall, upon denial of any registration, state in writing the reason for rejection and the process for appeal.
- E. Deny any application for registration upon written findings that the granting would be detrimental to public peace, health, or welfare, or that such application for registration is not in compliance with any applicable city regulation.
- F. When any such registration is denied, the applicant may appeal such decision to the hearing examiner pursuant to Chapter 2.20 UPMC.
- G. When the issuance is denied, and any action instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the registration was refused unless or until the registration is issued pursuant to an administrative or judicial judgment.

(Ord. 423 § 12, 2004; Ord. 286 § 3, 2000).

5.25.040 License - applicant investigation.

It shall be the duty of the chief of police to investigate each application filed under Section 3 of this ordinance, and determine:

- A. The existence of the employer or firm of each individual or master solicitor applicant, by confirming the State or Federal Identification Number.

B. The genuineness of all credentials presented by the applicant.

C. Whether the applicant or any solicitor agent listed on the application has a conviction for a felony within the ten years preceding the license application and the felony directly relates to the qualification of the applicant to be a solicitor or peddler.

D. The truth of the facts set forth in the application.

(Ord. 286 § 4, 2000)

5.25.050 License fee.

The fee for obtaining an individual peddler or solicitor or master solicitor license shall be as set by Resolution of the City of University Place.

(Ord. 286 § 5, 2000)

5.25.060 License, or facsimile copy carried on person.

A. It shall be unlawful for any individual licensed as a solicitor or peddler to peddle or solicit without having in their possession the license issued by the ~~city clerk~~ designee pursuant to the provisions of this ordinance.

B. Each master solicitor licensee which employs, hires or engages others to act as peddlers or solicitors shall furnish as credentials to each employee, agent, independent contract, or other person peddling or soliciting for or on behalf of such licensee, a facsimile copy of its license upon which shall appear the typed or printed name and address, and the signature of the person to whom such facsimile copy is issued. Such facsimile copies will be issued by the ~~city clerk~~ designee, who will maintain a listing of all persons to whom facsimile copies are issued. A licensee shall be responsible for the conduct and acts performed within the scope of employment or contract of any person peddling or soliciting for or on behalf of the licensee, and shall maintain a list of all persons to whom facsimile copies of its license have been issued. It shall be unlawful for any licensee or any person to peddle or solicit without having in their possession such license, or a facsimile copy thereof, which shall be shown to all prospective buyers, and to any police officer, deputy sheriff, or license officer of the City upon the request of such officer. Such facsimile copies shall be nontransferable and shall at all times remain in the possession of the person to whom issued. Whenever any person to whom a facsimile copy has been issued ceases to act as a peddler or solicitor for or on behalf of the master solicitor licensee, notification shall be given to the ~~city clerk~~ designee by the licensee and the facsimile copy issued to such person shall be surrendered to the licensee.

(Ord. 286 § 6, 2000)

5.25.070 Hours during which peddling is allowed.

It is unlawful for any person to peddle or solicit, except during the following hours, without the specific prior consent of the prospective buyer:

October 1 through April 30 - between 10:00 am and 6:00 pm of any day.

May 1 through September 30 - between 10:00 am and 8:00 pm of any day.

(Ord. 286 § 7, 2000)

5.25.080 Unlawful to peddle or solicit on posted premises.

It is unlawful for any peddler or solicitor to ring the bell, or knock on the door, or otherwise attempt to gain admittance for the purpose of peddling or soliciting at any residence or dwelling at which a sign bearing the words "No Peddlers or Solicitors" (or words of similar import indicating that peddlers or solicitors are not wanted on said premises) is painted, affixed, or otherwise exposed to public view; provided, that this section shall not apply to any peddler or solicitor who rings the bell, knocks on the door, or otherwise attempts to gain admittance to such residence or dwelling at the invitation or with the consent of the occupant thereof.

(Ord. 286 § 8, 2000)

5.25.090 Exemptions.

The following shall be exempt from the provisions of this ordinance:

- A. Any instrumentality of the United States, State of Washington, or any political subdivision thereof, with respect to the exercise of governmental functions.
- B. Non-profit organizations, including but not limited to religious, civic, charitable, benevolent, non-profit, cultural or youth organizations.
- C. Farmers, gardeners, or other persons who deliver or peddle any agricultural, horticultural, or farm products which they have actually grown, harvested, or produced, provided that this exemption does not apply to the sale of firewood.
- D. Any person selling or delivering door-to-door or on an established route, milk, or milk products, bakery goods, or laundry and dry cleaning services.
- E. Newspaper carriers who deliver door-to-door on an established route(s)
- F. Any person who is specifically requested to call upon others for the purpose of displaying goods, literature, or giving information about any article, service, or product;

G. Bona fide candidates, campaign workers, and political committees campaigning on behalf of candidates or on ballot issues and persons soliciting signatures of registered voters on petitions to be submitted to any governmental agency.

(Ord. 286 § 9, 2000)

5.25.100 Penalties and violations.

Any person found in violation of any of the provisions of this ordinance shall be guilty of a misdemeanor.

A. Criminal Penalties. Any person who fails to comply with the provisions of this article shall be guilty of a misdemeanor and upon conviction thereof, be punished as provided in RCW 9A.20.021(3). Any person violating or failing to comply with any of the provisions of this article may be punished by a fine of not more than \$500.00 or imprisoned for not more than ninety (90) days, or both, for each day or part of a day during which the unlawful act or violation occurs. The person may also be ordered to discontinue the unlawful act or correct the violation.

B. Civil Penalties. Any person who fails to comply with the provision of this article is, in addition to any criminal penalties, subject to a maximum civil penalty of \$500.00 for each day or portion of the day that the violation continues pursuant to UPMC, Chapter 20.

C. Other Legal Remedies. Nothing in this article limits the right of the city to pursue other lawful, criminal, civil or equitable remedies to abate, discontinue, correct or discourage unlawful acts under or in violation of this article.

(Ord. 286 § 10, 2000)

Chapter 5.30 BUSINESS RELOCATION ASSISTANCE

Sections:

5.30.010 Purposes and scope.

5.30.020 Definitions.

5.30.030 Payment for moving and related expenses.

5.30.040 Relocation assistance advisory services.

5.30.050 Contracts for service – Use of services of other agencies.

5.30.060 Relocation assistance payments not income.

5.30.070 Severability – Conflict with federal requirements.

5.30.080 Appeal of administrative decision.

5.30.090 Authorizing the city manager to develop guidelines.

5.30.010 Purposes and scope.

A. The purposes of this chapter are:

1. To establish a uniform policy for the fair and equitable treatment of businesses displaced as a result of public works programs of the city of University Place which are designed for the benefit of the public; and
2. To encourage and expedite the acquisition of real property for public works projects by agreement, to reduce litigation, to assure consistent treatment of business owners affected by city public works projects, and to promote public confidence in city acquisition practices.

B. Nothing in this chapter may be construed as creating in any condemnation proceeding brought under the power of eminent domain any element of value or damage separate and distinct from a real property interest.

(Ord. 388 § 1, 2003).

5.30.020 Definitions.

A. The term “city” means the e_City of University Place, a municipal corporation of the state of Washington.

B. The term “displaced business” means any business that is required to move from real property taken as a result of construction of a public works project within the city.

C. The term “business” means any lawful activity, except for a farm operation, that is considered:

1. Primarily for:

- a. The purchase, sale, lease, and rental of personal and real property;
- b. The manufacture, processing, or marketing of products, commodities, or other personal property; or
- c. Any combination of these activities;

2. Primarily for the sale of services to the public;
3. Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or
4. By a nonprofit organization that has established its nonprofit status under applicable federal or state law.

D. The term "nonprofit organization" means an organization that is incorporated under the applicable laws of a state as a nonprofit organization and exempt from paying federal income taxes under Section 501 of the Internal Revenue Code. (26 U.S.C. 501)

E. The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or for home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

F. The term "reestablishment expenses" means:

1. Repairs or improvements to the replacement real property as required by local law, code or ordinance.
2. Modifications to the replacement real property to accommodate the business operation.
3. Construction and installation costs for exterior signing to advertise the business.
4. Provisions for utilities from rights-of-way to improvements to the replacement site.
5. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.
6. Licenses, fees, and permits when not paid as part of moving expenses.
7. Feasibility surveys, soil testing and market studies.
8. Advertisement of replacement location.
9. Professional services in connection with the purchase or lease of replacement site.
10. Estimated increased in expenses limited to two years at the replacement site for such items as:
 - a. Personal or real property taxes;
 - b. Insurance premiums;

c. Utility charges; and

d. Impact fees or one-time assessments for anticipated heavy utility usage.

G. The term "nonreimbursable expenses" means:

1. The cost of moving items not considered personal property.
2. Loss of business, profits, good will, or trained employees (includes loss due to downtime).
3. Personal injury.
4. Additional operating expenses because of operating in a new location except as provided for as reestablishment expenses.
5. Any legal fee or other cost for preparing a claim for a relocation payment or for any appeal of your relocation benefits.
6. Physical changes to real property at the replacement location except as provided for as reestablishment expenses.
7. Cost for storage on real property already owned or leased by you.

(Ord. 388 § 1, 2003).

5.30.030 Payment for moving and related expenses.

A. Whenever a program or project to be undertaken by the city will result in the displacement of any business, the city shall reimburse the displaced business for:

1. Actual and reasonable expenses in moving personal property in amount not to exceed \$1,000;
2. Actual and reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, in accordance with criteria established by the lead agency, but not to exceed \$1,000;
3. Actual reasonable expenses in searching for a replacement business location not to exceed \$1,000; and

B. 1. Reasonable relocation expenses for improvements to the replacement location are limited by the number of square feet of the facility moved from and by the following limitations:

- a. Direct moving expenses: maximum \$1.50/square foot.

- b. Reestablishment expenses: maximum \$2.00/square foot.
- c. Related moving expenses: fixed \$1,000.
- d. Additional restaurant allowance: maximum \$2.00/square foot.

Restaurants are entitled to this additional sum for actual expenses incurred in moving specialty equipment.

Provided, that tenants that relocate outside of the city shall only be entitled to 50 percent of the amounts listed above.

2. Eligible expenses for moving personal property include:

- a. Transportation costs for a distance up to 50 miles.
- b. Packing, crating, unpacking and uncrating.
- c. Disconnecting, dismantling, removing, reassembling and reinstalling relocated machinery, equipment and other personal property.
- d. Modifications to personal property required by code.

(Ord. 388 § 1, 2003).

5.30.040 Relocation assistance advisory services.

A. Programs or projects undertaken by the city shall be planned in a manner that recognizes, at an early stage in the planning of the programs or projects and before the commencement of any actions that will cause displacements, the problems associated with the displacement of businesses, and provides for the resolution of the problems in order to minimize adverse impacts on displaced business and to expedite program or project advancement and completion.

B. The city shall ensure that the relocation assistance advisory services described in subsection (C) of this section are made available to all displaced businesses.

C. The relocation assistance advisory program required by subsection (B) of this section shall include such measures, facilities, or services as may be necessary or appropriate in order to:

- 1. Determine, and make timely recommendations on, the needs and preferences, if any, of displaced businesses for relocation assistance;

2. Provide current and continuing information on the availability, sales prices, and rental charges of comparable replacement business units for displaced businesses and suitable locations for businesses;
3. Assist a displaced business in obtaining and becoming established in a suitable replacement location;
4. Provide other advisory services to displaced businesses in order to minimize hardships to them in adjusting to relocation; and
5. Coordinate relocation activities performed by the agency with other federal, state, or local governmental actions in the community that could affect the efficient and effective delivery of relocation assistance and related services.

(Ord. 388 § 1, 2003).

5.30.050 Contracts for service— Use of services of other agencies.

In order to prevent unnecessary expenses and duplication of functions, and to promote uniform and effective administration of relocation assistance programs for displaced businesses the city may enter into contracts with any individual, firm, association, or corporation for services in connection with this chapter or may carry out its functions under this chapter through any federal or state agency or local public agency having an established organization for conducting relocation assistance programs.

(Ord. 388 § 1, 2003).

5.30.060 Relocation assistance payments not income.

Payments received by a displaced business under this chapter are for reimbursement of relocation expenses and shall not be considered income.

(Ord. 388 § 1, 2003).

5.30.070 Severability— Conflict with federal requirements.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

(Ord. 388 § 1, 2003).

5.30.080 Appeal of administrative decision.

The city manager or designee shall make an administrative decision setting the relocation assistance amount for each business affected by a city public works project. The

administrative decision shall be set forth in writing and mailed to the affected business. Any appeal of this administrative decision must be made by filing a notice of appeal at the city permit center within 14 days of the date of the decision. The filing fee for such an appeal shall be \$250.00. The city's hearings examiner shall conduct an open record appeal hearing and enter findings of fact and conclusions of law within 21 days of the hearing date. The decision of the hearings examiner shall be the final decision of the city. Any appeal thereafter shall be to the Pierce County superior court.

(Ord. 388 § 1, 2003).

5.30.090 Authorizing the city manager to develop guidelines.

The city manager or designee is hereby authorized to take all necessary steps to create guidelines to provide assistance for business relocation consistent with this chapter. Any such guidelines shall take effect immediately after they have been received and filed at a meeting of the city council.

(Ord. 388 § 2, 2003).

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