

ORDINANCE NO. 102

AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, RELATING TO ADULT ENTERTAINMENT BUSINESSES, PROVIDING DEFINITIONS, ENTERING FINDINGS OF FACT, ADOPTING PROCEDURES FOR THE CLERK TO SUSPEND OR REVOKE A LICENSE, IDENTIFYING INFORMATION REQUIRED IN ADULT ENTERTAINMENT LICENSES, ESTABLISHING STANDARDS OF CONDUCT INCLUDING A MINIMUM FOUR FOOT SEPARATION BETWEEN AN ENTERTAINER AND A PATRON, AND PROVIDING FOR CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS OF THIS ORDINANCE.

WHEREAS, the City Council of the City of University Place, Washington, finds that the licensing and regulation of cabarets and adult cabarets, adult cabaret managers and entertainers, is in the interest of the public health, safety, and welfare, and

WHEREAS, based on public testimony and other evidence presented to it, the City Council has determined that the secondary effects of adult entertainment activities are detrimental to the public health, safety, morals, and general welfare of the citizens of University Place, and,

WHEREAS, proximity between entertainers and patrons during adult entertainment performances can facilitate sexual contact, prostitution, and related crimes, and

WHEREAS, concerns about crime and public sexual activity are legitimate and compelling concerns of the City which demand reasonable regulation of adult entertainment establishments in order to protect the public health, safety, and general welfare, and

WHEREAS, it is the intent of the ordinance to enact time, place, and manner regulations which address the compelling interests of the City in mitigating the secondary effects of adult entertainment establishments; NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE,
WASHINGTON, DO ORDAIN AS FOLLOWS:**

Section 1. Definitions.

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

A. *Adult entertainment* shall mean:

1. Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance involves a person who is unclothed or in such

costume, attire or clothing as to expose any portion of the 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 premises where such exhibition, performance or dance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to the following specified sexual activities:

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts of human masturbation, sexual intercourse or sodomy; or
- (c) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast; or

3. Any exhibition, performance or dance intended to sexually stimulate any patron and conducted in a premises where such exhibition, performance or dance is performed for, arranged with or engaged in with fewer than all patrons on the premises at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance. For purposes of example 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 any patron 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* means the individual or entity seeking an adult entertainment license in the City of University Place.

D. *Applicant control persons* means: All partners, corporate officers and directors and any other individuals in the applicant's business organization who holds a significant interest in the adult entertainment establishment, based on responsibility for management of the adult entertainment business.

E. *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 adult entertainment establishment.

F. *Entertainer* shall mean any person who provides live adult entertainment whether or not a fee is charged or accepted for such entertainment.

G. *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 adult entertainment occurring at any adult entertainment establishment.

H. *Operator* shall mean any person operating, conducting or maintaining an adult entertainment establishment.

I. *Panorama or peepshow* shall mean any device which, upon insertion of a coin or by any other means of payment, including membership fee or other charge, exhibits or displays a picture or view by film, video or by any other means, including observation of live performances.

J. *Panoram premises* means any premises or portion of a premises or portion of a premises on which a panorama is located and which is open to the public, including through membership.

K. *Person* means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons, however organized.

L. *Sexual conduct* means acts of (a) sexual intercourse within its ordinary meaning; or (b) any contact between persons involving the sex organs of one person and the mouth or anus of another; or (c) masturbation, manual or instrumental, of oneself or of one person by another; or (d) touching of the sex organs or anus, of oneself or of one person by another.

Section 2. Findings of fact.

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

A. The secondary effects of the activities defined and regulated in this article are detrimental to the public health, safety, morals, and general welfare of the citizens of the city 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 adult entertainment performances can facilitate sexual contact, prostitution and related crimes. Concerns about crime and public sexual activity are legitimate and compelling concerns of the city which demand

reasonable regulation of adult entertainment establishments in order 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 adult entertainment is presented in conjunction with the sale of alcoholic beverages.

E. It is necessary to license entertainers in the 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 establishments offering adult entertainment 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 patrons, entertainers and other employees.

G. The license fees required in this Ordinance 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. In order 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 adult entertainment establishment.

I. It is not the intent of this Ordinance 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 in mitigating the secondary effects of adult entertainment establishments.

Section 3. Penalties.

A. *Criminal penalty.* Any person violating any of the terms of this ordinance 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 ninety (90) days, or by both such fine and imprisonment.

B. *Civil penalty.* In addition to any other penalty provided in this section or by law, any person who violates any provision of this ordinance shall be subject to a civil penalty. Any

civil penalty assessed will be enforced and collected in accordance with the procedures specified in Ordinance No. 100. The City Clerk is declared the applicable Department Director within the meaning of Ordinance No. 100 for the purposes of compliance with this ordinance.

Section 4. Additional enforcement.

Notwithstanding the existence or use of any other remedy, the City Clerk may seek legal or equitable relief to enjoin any acts or practices which constitute or will constitute a violation of any provision of this Ordinance.

Section 5. Business Hours.

No adult entertainment shall be conducted between the hours of 2:00 a.m. and 10:00 a.m.

Section 6. Activities not prohibited.

A. This Ordinance shall not be construed to prohibit:

- (1) Plays, operas, musicals or other dramatic works which are not obscene.
- (2) Classes, seminars and lectures held for serious scientific or educational purposes; or
- (3) Exhibitions or dances which are not obscene.

B. Whether or not activity is obscene shall be judged by consideration of the following factors:

- (1) Whether the average person, applying contemporary community standards, would find that the activity taken as a whole appeals to a prurient interest in sex; and
- (2) Whether the activity depicts or describes in a patently offensive way, as measured against community standards, sexual conduct as described in RCW 7.48A.010(2)(b).
- (3) Whether the activity taken as whole lacks serious literary, artistic, political or scientific value.

Section 7. License suspension or revocation.

A. The clerk 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 Section:

- (1) Where such license was procured by fraud or false representation of fact; or

(2) For the violation of, or failure to comply with, the provisions of this Ordinance or any other similar local or state law by the licensee or by any of its servants, agents or employees when the licensee knew or should have known of the violations committed by its servants, agents or employees; or

(3) For the conviction of the licensee of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in RCW Article 69.50) committed on the premises, or the conviction of any of the licensee's servants, agents or employees of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in RCW Article 69.50) committed on the license premises when the licensee knew or should have known of the violations committed by its servants, agents or employees.

B. A license procured by fraud or misrepresentation shall be revoked. Where other violations of this ordinance or other applicable ordinances, statutes or regulations are found, the license shall be suspended for a period of 30 days upon the first such violation, 90 days upon the second violation with a 24-month period, and revoked for third and subsequent violations within a 24-month period, not including periods of suspension.

C. The Clerk shall provide at least ten days prior written notice to the licensee of the decision to suspend or revoke the license. Such notice shall inform the licensee of the right to appeal the decision to the hearing examiner or other designated hearing body and shall state the effective date of such revocation or suspension and the grounds for revocation or suspension.

D. Notification shall be by personal service or registered or certified mail, return receipt requested, of the decision. Notice mailed to the address on file shall be deemed received three days after mailing. The notice shall specify the grounds for the suspension or revocation. The suspension or revocation shall become effective ten days from the date the notice is delivered or deemed received unless the person affected thereby files a written request with the city clerk for a hearing before the hearing examiner within such ten-day period. The hearing examiner or other hearing body shall render its decision within 15 days following the close of the appeal hearing. Any person aggrieved by the decision of the hearing examiner shall have the right to appeal the decision to the Superior Court within thirty (30) calendar days from the date the hearing examiner's decision was personally served upon or was mailed to the person to whom the notice of civil violation was directed, or is thereafter barred.

E. Where the University Place building official, fire marshal or the Pierce County Health Department find that any condition exists upon the premises of an adult entertainment establishment which constitutes a threat of immediate serious injury or damage to persons or property, said official may immediately suspend any license issued under this Ordinance pending a hearing in accordance with subsection C. above. 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 hearing examiner under the same appeal provisions set forth in subsection C. above,

provided, however, that a suspension based on threat of immediate serious injury or damage shall not be stayed during the pendency of the appeal.

Section 8. Notice of appeal.

Any person falling under the provisions of this Ordinance may appeal from any notice of suspension, denial or revocation or civil penalty assessment by filing with the city clerk within ten days from the date the notice is delivered or deemed received, a written appeal containing:

A. A heading in the words: "Before the Hearing Examiner for the City of University Place";

B. A caption reading: "Appeal of _____"
giving the names of all appellants participating in the appeal;

C. A brief statement setting forth the legal interest of each of the appellants participating in the appeal;

D. A brief statement in concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant;

E. A brief statement in concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside;

F. The signatures of all parties named as appellants, and their official mailing addresses; and

G. The verification, by declaration under penalty of perjury, of at least one appellant as to the truth of the matters stated in the appeal.

Section 9. Date, time, place for hearing.

As soon as practicable after receiving the written appeal, the hearing examiner shall fix a date, time, and place for the hearing of the appeal. Such date shall be not less than ten days nor more than 45 days from the date the appeal was filed with the city clerk, unless the parties agree to an extension of time. Written notice of the time and place of the hearing shall be given at least ten days prior to the date of the hearing to each appellant by the hearing examiner's office either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his or her address shown on the appeal.

Section 10. Scope of matters considered in appeal.

Only those matters or issues specifically raised by the appellant in the written notice of appeal shall be considered in the hearing of the appeal.

Section. 11. Waiver of right to appeal.

Failure of any person to file an appeal in accordance with the provisions of this division shall constitute a waiver of his or her right to an administrative hearing and adjudication of the notice and order, or any portion thereof.

Section 12. Action after hearing.

Upon completion of the hearing, the hearing examiner shall:

- A. Affirm the city clerk's decision; or
- B. Reverse or modify the city clerk's decision.

Section 13. Appeal to Superior Court.

An appeal of the decision of the hearing examiner must be filed with Superior Court within thirty (30) calendar days from the date the hearing examiner's decision was personally served upon or was mailed to the person to whom the notice of civil violation was directed, or is thereafter barred.

Section 14. Stay during appeal.

The decision of the clerk to suspend, revoke or refuse to renew a license under this ordinance shall be stayed during administrative and judicial review, but refusal to issue an initial license shall not be stayed.

Section 15. License for establishment required; fee; expiration.

A. Adult entertainment establishments shall not be operated or maintained in the city unless the owner or operator has first obtained a license from the city clerk, as set forth in this ordinance. It is unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult entertainment establishment.

B. The fee for an adult entertainment establishment license in the city as required in this division is \$500.00 per year.

Section 16. License for managers, entertainers required; fee.

No person shall work as a manager or entertainer at an adult entertainment establishment without having first obtained a manager's or an entertainer's license from the city clerk pursuant to sections 19 and 20 of this Ordinance. The annual fee for such a license shall be \$50.00

Section 17. Due date for license fees.

A. The license fee required by section 15 is due and payable to the city clerk at least two weeks before the opening of the adult entertainment establishment.

B. The license fee required by sections 15 and 16 are due and payable to the city clerk before the beginning of such entertainment or beginning employment.

C. Every license issued or renewed pursuant to this Ordinance shall expire on December 31 of each year.

D. The entire annual license fee shall be paid for the applicable calendar year regardless of when the application for license is made, and shall not be prorated for any part of the year except that if the original application for license is made subsequent to June 30, the license fee for the remainder of that year shall be one-half of the annual license fee. Annual license renewals shall be required to be obtained and paid in full by January 31 of each respective calendar year.

Section 18. Renewal of license; late penalty.

A late penalty shall be charged on all applications for renewal of a license received later than seven days after the expiration date of such license as set forth in the respective resolution or ordinance establishing the expiration date of such license. The amount of such penalty is fixed as follows:

Days Past Due	Additional Percentage of License Fees
8 - 30	25
31-60	50
61 and over	100

Section 19. License applications.

A. *Adult entertainment establishment license.*

(1) Required information. All application for an adult entertainment establishment license shall be submitted to the clerk in the name of the person or entity proposing to conduct the adult entertainment establishment on the business premises and shall be signed by such person or his or her agent and notarized or certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the city, which shall require the following information:

- a. The name of the applicant, location and doing-business-as name of the proposed 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.
- b. For the applicant and for each applicant control person, provide: Names any aliases or previous names, driver's license number, if any, social security number if any, and business, mailing, and residential address, and business telephone number.
- c. If the applicant is a partnership, whether general or limited; and 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. For the applicant and each applicant control person, list any other licenses currently held for similar adult entertainment or sexually oriented businesses, including motion picture theaters and panoramas, whether from the city or another city, county, state, and if so, the names and addresses of each other licensed business.
- e. For the applicant and each applicant control person, list prior licenses held for similar adult entertainment or other sexually oriented businesses, whether from the city or from another city, county, or state, 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. Authorization for the city, its agents and employees to seek information to confirm any statements set forth in the application.
- i. Two two-inch by two-inch photographs of the applicant and applicant control persons, taken within six months of the date of application showing only the full face.

j. For the applicant or each applicant control person, a complete set of fingerprints prepared at the Pierce County Department of Public Safety or on forms prescribed by the Department.

k. A scale drawing or diagram showing the configuration of the premises for the proposed 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, restrooms and service areas shall be clearly marked on the drawing. An application for a license for an adult entertainment establishment shall include building plans which demonstrate conformance with this Ordinance.

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

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

(3) A non-refundable application fee must be paid at the time of filing an application in order to defray the costs of processing the application.

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

(5) If any person or entity acquires, subsequent to the issuance of an adult entertainment establishment license, a significant interest based on responsibility for management or operation of the license premises or the license business, notice of such acquisition shall be provided in writing to the city clerk, no later than 21 days following such acquisition. The notice to the clerk shall include the same information required for an initial adult entertainment establishment license application.

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

(7) No person granted an adult entertainment establishment license pursuant to this ordinance shall operate the establishment under a name not specified on the license, nor shall any person operate the establishment at any location not specified on the license.

(8) Upon receipt of the complete application and fee, the clerk shall provide copies to the law enforcement agency of the city, the fire district, and the planning and community development department 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 25 days of the date of such application, inspect the application and premises and shall make a written report to the clerk whether such application and premises complies with the laws administered by each department. No license may be issued unless each department reports that the application and premises comply with the relevant laws. In the event the 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 premises construction 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 adult entertainment establishment is not in conformance with the requirements of this Ordinance or other law in effect in the city. A recommendation for denial shall cite the specific reason therefor, including applicable laws.

(9) An adult entertainment establishment license shall be issued by the clerk within 30 days of the date of the filing a complete license application and fee, unless the clerk determines that the applicant has failed to meet any of the requirements of this Ordinance or provide any information required under this section or that the applicant has made a false, misleading or fraudulent statement of material fact on the application for a license. The clerk shall notify the applicant within five working days of application submittal if application is incomplete, and 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 finds that the applicant has failed to meet any of the requirements for issuance of an adult entertainment establishment license, the clerk shall deny the application in writing and shall cite the specific reasons therefore, including applicable law. If the clerk 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 law, to operate the business for which the license was sought until notification by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days.

B. *Application for manager or entertainer license.*

(1) Required information. No person shall work as a manager, assistant manager or entertainer at an adult entertainment establishment without an adult entertainment manager or entertainer license from 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 submitted on a form supplied by the city, which shall require the following information:

a. The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by 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.

b. The name and address of each business at which the applicant intends to work.

c. Documentation that the applicant has attained the age of 18 years. Any two of the following shall be accepted as documentation of age:

i. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;

ii. A state-issued identification card bearing the applicant's photograph and date of birth;

iii. An official passport issued by the United States of America.

iv. An immigration card issued by the United States of America; or

v. Any other identification that the city determines to be acceptable.

d. 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.

e. A description of the applicant's activities or services to be rendered.

f. Two two-inch by two-inch photographs of applicant, taken within six months of the date of application showing only the full face.

g. Authorization of the city, its agents and employees to investigate and confirm any statements set forth in the application.

(2) The clerk may request additional information or clarification when necessary to determine compliance with this ordinance.

(3) A manager's or an entertainer's license shall be issued by the clerk within 14 days from the date the complete application and fee are received unless the clerk determines that the applicant has failed to provide any information required to be supplied according to this ordinance, 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 ordinance. If the clerk determines that the applicant has failed to qualify for the license applied for, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. If the clerk has failed to approve or deny an application for a manager's license within 14 days of 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 that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days.

(4) Every adult entertainer shall provide his or her license to the adult entertainment establishment manager on duty on the premises prior to his or her 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.

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

Section 20. Manager on premises.

A license manager shall be on the premises of an adult entertainment establishment at all times that adult entertainment is being provided.

Section 21. Applicability of Regulations.

The regulations established in this ordinance do not apply to taverns and premises maintaining liquor licenses and which are subject to the rules and regulations of the Washington State Liquor Control Board, to the extent that the Washington State Liquor Control Board preempts such regulations.

Section 22. Standards of conduct and operation.

The following standards of conduct must be adhered to by employees of any adult entertainment establishment:

A. No employee or entertainer shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, except upon a stage at least 18 inches above the immediate floor level and removed at least eight feet from the nearest patron.

B. No employee or entertainer mingling with patrons shall be unclothed or in less than opaque and complete attire, costume or clothing as described in subsection A above, nor shall any male employee or entertainer 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.

C. No employee or entertainer mingling with patrons shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva, genitals, anus or buttocks.

D. No employee or entertainer shall caress, fondle or erotically touch any patron. No employer or entertainer shall encourage or permit any patron to caress, fondle or erotically touch any employee or entertainer. No employee or entertainer shall sit on a patron's lap or separate a patron's legs.

E. No employee or entertainer shall perform actual or simulated acts of sexual conduct as defined in this ordinance, or any act which constitutes a violation of RCW 7.48A, the Washington Moral Nuisances Statute.

F. No employee or entertainer mingling with patrons shall conduct any dance, performance or exhibition in or about the non-stage area of the adult entertainment establishment unless that dance, performance or exhibition is performed as a torso-to-torso distance of no less than four feet from the patron or patrons for whom dance, performance or exhibition is performed.

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

Section 23. List of entertainment's, fees.

There shall be posted and conspicuously displayed in the common areas of each place offering adult entertainment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed.

Section 24. Physical layout of premises; sight obstructions.

Every place offering adult entertainment shall be physically arranged in such a manner that:

A. Performance area. The performance area where adult entertainment as described in Section 1 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 patrons have access. A continuous railing three to five feet in height above the floor and located at least eight feet from all points of the performance area shall 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 obstruction whatsoever.

B. No activity or entertainment occurring on the premises shall be visible at any time from any other public place.

Section 25. Notice to customers.

A sign shall be conspicuously displayed in a common area of the premises which shall read as follows:

This adult entertainment establishment is regulated by the City. Entertainers are:

A. Not permitted to engage in any type of sexual conduct.

B. Not permitted to appear semi-nude or nude, except on stage.

C. Not permitted to accept tips or gratuities in advance of their performance.

D. Not permitted to accept tips or gratuities directly from patrons while performing upon any stage area.

Section 26. Additional requirements for peepshows.

The following additional requirements must be adhered to at any panoram or peepshow:

A. The interior of the panoram or peepshow premises shall be arranged in such a manner as to insure that customers are fully visible from the waist down, and all persons viewing such panoram pictures shall be visible from the entrance to such premises.

B. The licensee shall not permit any doors to public areas on the premises to be locked during business hours.

C. Any room or area on such premises shall be readily accessible at all time for inspection by any law enforcement officer or license inspector.

D. Sufficient lighting shall be provided in and equally distributed in and about the parts of the premises which are open to patrons so that all objects are plainly visible at all times, and so that on any part of the premises which is open to patrons, 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.

Section 27. Additional Requirements for adult entertainment establishments.

At any adult entertainment establishment the following are required:

A. Admission must be restricted to persons of the age of 18 years or more.

B. No adult entertainment shall be visible outside of the adult entertainment establishment, nor any photograph, drawing, sketch or other pictorial or graphic representation which includes lewd matter as defined in RCW 7.48A or display of sexually explicit material in violation of RCW 9.68.130.

C. Sufficient lighting shall be provided in and equally distributed in and about the parts of the premises which are open to patrons so that all objects are plainly visible at all times, and so that on any part of the premises which is open to patrons, 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.

Section 28. 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 29. 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 its publication.

PASSED BY THE CITY COUNCIL ON JUNE 17, 1996.



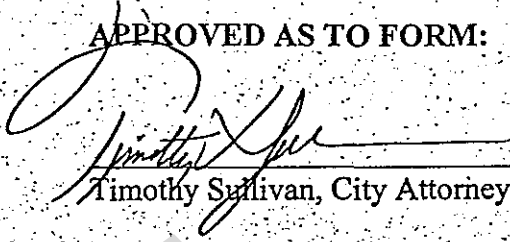
Ronald L. Williams, Mayor

ATTEST:



Susan Matthew, City Clerk

APPROVED AS TO FORM:



Timothy Sullivan, City Attorney

Published: June 19, 1996
Effective Date: June 24, 1996