

ORDINANCE NO. 357

AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, ESTABLISHING A SYSTEM FOR APPLICATION AND ISSUANCE OF GENERAL BUSINESS REGISTRATION LICENSES, SETTING A DELINQUENT PENALTY, ESTABLISHING PENALTIES FOR FAILURE TO COMPLY, AND PROVIDING FOR SUSPENSION OR REVOCATION OF BUSINESS LICENSES

WHEREAS, RCW 35A.82.020 permits the City to license, inspect, and regulate all places and kinds of business, production, commerce, entertainment, exhibition, and upon all occupations, trades, professions, and other lawful activity, unless preempted by the State; and

WHEREAS, the City Council passed Ordinance No. 119 in 1996 to establish a system for business licenses; and later amended Ordinance No. 119 with Ordinance No. 129 to note exemptions from master business license registration, as required under WAC 458-20-101(2)(a), to provide for notice of hearing and for an appeal period, and to add a non-conforming uses section; and later amended Ordinance No. 119 with Ordinance No. 144 to establish requirements for solicitors and peddlers; and

WHEREAS, Ordinance No. 119 and amendments by Ordinances No. 129 and No. 144 were codified into University Place Municipal Code Title 5, Chapter 5.05 Application and Issuance; and

WHEREAS, due to financial considerations mandating a reduction in service and staffing levels in City administration, Chapter 5.05 of the University Place Municipal Code was repealed by the City Council by Ordinance No. 260 on December 6, 1999; and

WHEREAS, on November 4, 2002, the City Council held a public hearing on the proposed ordinance and heard testimony; and

WHEREAS, the City Council finds that it is in the best interests of the public to require every person and entity engaged in business, commercial activities, and professional pursuits within the city to obtain a business license; and

WHEREAS, the City Council finds that it would be beneficial and advantageous for the City of University Place to have such regulations in place in order to assist the City in identifying the precise composition of its commercial community and in order for the City to better determine how to enhance economic development within the city and incorporate land use regulations and other City regulations; NOW, THEREFORE,

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

Section 1. Definitions. The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed in this section, except where the context clearly indicates a different meaning:

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.

Person 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.

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.

Section 2. 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 Section 6.

Section 3. 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.

Section 4. 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 within ten (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.

Section 5. Nonconforming Uses. Registration does not constitute vesting nor ratification of a nonconforming use. The purpose of this ordinance 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.

Section 6. Exemptions. The following shall be exempt from the provisions of this ordinance:

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 (4) such sales events are made during any tax year.

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

- (1) Earn less than \$12,000/year, and
- (2) Do not have a business name, and
- (3) Have no employees, and
- (4) Are not required to collect or pay to the Department of Revenue retail sales tax or any other tax or fee that the Department is authorized to administer and/or collect.

C. Minors engaged in baby-sitting, delivery of newspapers, lawn mowing, car washing, and similar activities.

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

E. All special events sponsored by the City, but not to include participating commercial peddlers.

F. Non-profit organizations, including but not limited to religious, civic, charitable, benevolent, non-profit, cultural or youth organizations.

Section 7. Processing Procedure. The City Clerk shall issue registrations in the name of the City to all persons qualified under the provisions of this article and shall:

- A. Adopt all forms and prescribe the information required to implement this ordinance.
- B. Submit all applications to the Community and Economic Development Department, Planning Division and Building Division; the Police 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.
- C. 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.
- D. 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.
- E. When any such registration is denied, the applicant may appeal such decision to the Hearing Examiner pursuant to the process described in Section 19.
- F. 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.

Section 8. 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.

Section 9. Inspections - Right of Entry. The City Clerk or designee or authorized representative of the Community and Economic 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.

Section 10. 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 31 of the same year. Unless renewed, as provided in this ordinance, each business license shall expire and be of no force or effect on January 1 of the following year, unless sooner revoked as provided in this ordinance.

Section 11. Renewal of License. All business licenses shall be renewed on or before January 1 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.

Section 12. 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.

Section 13. Penalty for Late Application. 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 30 of the applicable year, shall be subject to the following penalties:

- A. Delinquent from one (1) to thirty (30) days inclusive: a penalty of one-quarter of the applicable license fee.
- B. Delinquent from thirty-one (31) days to sixty (60) days inclusive: a penalty of one-half of the applicable license fee.
- C. Delinquent from sixty-one (61) to ninety (90) days inclusive: a penalty of three-quarters the applicable license fee.
- D. Any delinquency exceeding ninety (90) days shall be a misdemeanor.

Section 14. 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 ordinance is, in addition to any criminal penalties, subject to a maximum civil penalty of \$500 for each day or portion of the day that the violation continues.

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.

Section 15. Mailing of Notices. Any notices required by this ordinance 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; or if no such address is shown, to such address the City Clerk 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 article.

Section 16. Revocation; Suspension; Denial. A registration issued under this ordinance 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 operate the business or activity in accordance with any federal, state or local law or regulation;
- D. Conduct of the business or activity in a manner which endangers the public health, welfare, or safety;
- E. When the registration was procured by fraud or false representation of facts;
- F. When the registration was issued through mistake or inadvertence;
- G. When the registration application contains false or misleading statements, evasions or suppression of material facts.

Section 17. 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 (1) 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 may suspend a license for no more than six (6) months. During the period of any suspension, all business activity shall cease.

Section 18. Notice of Hearing. Prior to suspension or revocation of a registration under this ordinance, 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 shall constitute compliance with this section. Suspension or revocation of the registration shall occur ten (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 ordinance.

Section 19. Appeal Period. A registrant under this article must appeal the decision for revocation, suspension, or denial within ten (10) days of the mailing of the notice of revocation, suspension, or denial by filing a notice of appeal with the City Clerk. Upon receipt by the City Clerk of the appeal notice, a hearing shall be held before a hearing examiner designated by the City. Notice of the hearing shall be given to the appellant at least ten (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.

Section 20. Decision of the Hearing Examiner. The decision of the Hearing Examiner shall be rendered within five (5) days of the close of the hearing. The decision shall be in writing and shall:

- A. Affirm the City Clerk's decision; or
- B. Revise or modify the City Clerk's decision.

Section 21. Appeal to the Superior Court. The decision of the Hearing Examiner is final unless an appeal of the decision of the Hearing Examiner is filed with Superior Court within twenty-one (21) calendar days from the date the Hearing Examiner's decision was personally served upon or was mailed to the appellant. The decision for suspension or revocation of 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 22. 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 hearing examiner designated by the City upon a written appeal being filed with the City Clerk by the registrant within ten (10) days of the registration suspension. In the event of an appeal by registrant, a hearing shall be provided within ten (10) days of notice of appeal. The provisions of sections 19 and 20 shall apply to any appeal of the Hearing Examiner decision regarding emergency suspensions.

Section 23. Severability. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not effect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 24. 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 take effect on January 1, 2003.

PASSED BY THE CITY COUNCIL ON NOVEMBER 18, 2002.



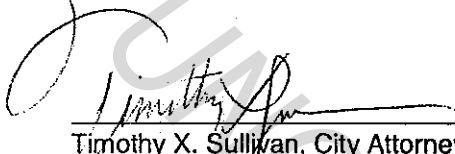
Jean Brooks, Mayor

ATTEST:



Catrina Craig, City Clerk

APPROVED AS TO FORM:



Timothy X. Sullivan, City Attorney

Date of Publication: 11/21/02
Effective Date: 1/1/03

OFFICIAL DOCUMENT