

ORDINANCE NO. 175

AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, ADOPTING REGULATIONS FOR ADULT USE FACILITIES INCLUDING PANORAM AND PEEP SHOWS, PROVIDING FOR ESTABLISHMENT, DEVICE AND OPERATOR'S LICENSES, AND ESTABLISHING PENALTIES FOR VIOLATION OF THIS ORDINANCE

WHEREAS, adult use facilities, including panoram facilities, are known to generate substantial levels of criminal and other undesirable activity; and

WHEREAS, this ordinance is necessary to better protect the health, safety, and welfare of the City of University Place and its citizens; and

WHEREAS, the City is in the process of codifying city ordinances and adopting this ordinance in codified form reserving only the title and chapter numbers expedites the codification process; NOW, THEREFORE,

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

Section 1. Panoram Devices. There is hereby created a new chapter of the University Place Municipal Code, Chapter _____ - Panoram Devices, to read as follows:

Chapter _____

PANORAM DEVICES

Sections:

- ___ Findings of Fact.
- ___ Definitions.
- ___ Panoram premises license required.
- ___ Panoram device license required.
- ___ Panoram operator's license required.
- ___ License fee - Terms - Assignment - Renewals.
- ___ License application - Report by city departments.
- ___ Issuance of licenses.
- ___ Suspension or revocation of licenses - Notices - summary suspension.
- ___ Appeal and hearing.
- ___ Premises regulations.
- ___ Unlawful acts.

- ___ Violation and penalties.
- ___ Compliance.
- ___ Severability.

___ **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.

___ **Definitions.**

As used in this ordinance, 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 directors 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” 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 ordinance.

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.

 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 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.

 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 shall prescribe the form of such license and number the same.

 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 shall prescribe the form of such license and shall number the same.

 License fee - Terms - Assignment - Renewals.

A. The license year for licenses under this chapter shall be from January 1 to December 31. All licenses under this chapter shall expire on December 31 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 30 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 31 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 31, the Clerk shall assess and collect an additional charge as follows:

1. If the application is more than 6 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.

___ 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 on a form provided by the Clerk for that purpose.

The Clerk, 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 in determining compliance with this chapter and other applicable law. Upon receipt of any complete application for a license, the Clerk 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 non-issuance. 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 (a).

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 director 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 (2) two-inch by two-inch (2"X2") 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?).

___ **Issuance of licenses.**

A. Upon receipt of any application, the Clerk shall issue a temporary license or renewal thereof, pursuant to Section _____, or notice of non-issuance and the reasons therefor.

B. The Clerk shall issue the permanent license or licenses applied for if and only if, after an investigation, the Clerk 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, director, 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 Clerk.

___ Suspension or revocation of licenses - Notices - Summary suspension.

A. The Clerk 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:

1. 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 Clerk; or

2. 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

3. The licensee, his or her employee, agent, partner, director, officer or manager has knowingly allowed or permitted in or upon the premises any violations of this chapter or acts made unlawful under this chapter.

___ Appeal and hearing.

A. Any person aggrieved by the action of the Clerk 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 hearing 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 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.

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 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 Hearing 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 Hearing Examiner's or other hearing body's decision.

___ 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 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.

___ 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.

___ 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 UP Code _____, shall upon conviction thereof be guilty of a

misdemeanor and shall be punished by a fine of not more than \$1,000.00, 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 regard 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.

___ **Compliance.**

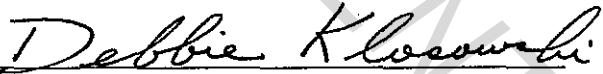
All persons and premises regulated pursuant to this chapter shall comply with this chapter within 30 days of the effective date of the ordinance codified in this chapter.

___ **Severability.**

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

Section 2. Effective Date. This ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

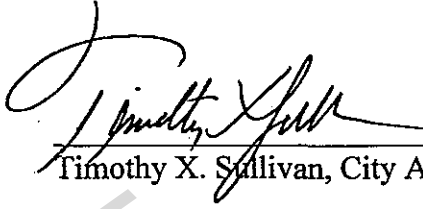
PASSED BY THE CITY COUNCIL ON DECEMBER 1, 1997.


Debbie Klosowski, Mayor Pro Tem

ATTEST:


Susan Matthew, City Clerk

APPROVED AS TO FORM:



Timothy X. Sullivan, City Attorney

Date of Publication: December 4, 1997

Effective Date: December 9, 1997

UNOFFICIAL DOCUMENT