

**ORDINANCE NO. 173**

**AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, RELATING TO ADULT ENTERTAINMENT ESTABLISHMENTS, ENTERING FINDINGS OF FACT, PROVIDING DEFINITIONS, ADOPTING PROCEDURES FOR THE CLERK TO ISSUE, SUSPEND OR REVOKE ADULT ENTERTAINMENT ESTABLISHMENT'S, MANAGER'S AND ENTERTAINER'S LICENSES, IDENTIFYING INFORMATION REQUIRED IN ADULT ENTERTAINMENT LICENSES, ESTABLISHING STANDARDS OF CONDUCT AND OPERATION INCLUDING A MINIMUM FOUR FOOT SEPARATION BETWEEN AN ENTERTAINER AND A PATRON, PROVIDING NOTICE TO CUSTOMERS IN ADULT ENTERTAINMENT ESTABLISHMENTS, PROVIDING FOR CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS OF THIS ORDINANCE AND REPEALING ORDINANCES NOS. 102 AND 134.**

WHEREAS, the City Council of the City of University Place, Washington, believes that the licensing and regulation of adult entertainment establishments, adult entertainment managers and adult 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, including prostitution, promoting prostitution, drug and alcohol violations and the spread of sexually transmitted diseases 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 to protect the public health, safety, and general welfare, and

WHEREAS, it is the intent of this ordinance to enact time, place, and manner regulations which address the compelling interests of the City to mitigate the secondary effects of adult entertainment establishments and conform to the standards for such regulations articulated by the Washington Supreme Court in the case of Ino Ino, Inc. v. Bellevue; NOW, THEREFORE,

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

Section 1. 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 ordinance 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 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. 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 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 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.

Section 2. Definitions. The words and phrases used in this ordinance shall have the following meanings unless the context clearly otherwise indicates:

*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.

*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.

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

*Applicant control persons* shall mean all partners, corporate officers, and directors 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.

*Clerk* shall mean the City Clerk or such other employee or agent of the City of University Place who is designated to administer this Ordinance.

*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.

*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.

*Liquor* shall mean a beverage as defined in RCW 66.04.010.

*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.

*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.

*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.

*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.

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

*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.

*Sexual conduct* shall mean an act of:

- (a) sexual intercourse within its ordinary meaning, occurring upon a penetration, however slight; or
- (b) a penetration of the vagina or anus, however slight, by an object; or
- (c) a contact between persons involving the sex organs of one person and the mouth or anus of another; or
- (d) masturbation, manual or instrumental, of oneself or one person by another; or
- (e) touching of the sex organs, anus, or female breasts, whether clothed or unclothed, of oneself or of one person by another.

### Section 3. License required.

- (1) 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.
- (2) 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.

- (3) 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.
- (4) 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.

Section 4. Restrictions on issuing licenses. The City Clerk may issue licenses as provided for in this ordinance except:

- (1) No license may be issued to a natural person who has not attained the age of twenty-one years with respect to live adult entertainment establishments where intoxicating liquors are served or provided;
- (2) No license may be issued to a natural person who has not attained the age of eighteen years with respect to live adult entertainment establishments where intoxicating liquors are not served or provided;
- (3) 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;
- (4) 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
- (5) No license may be issued to a corporation, unless all of the officers and directors of the corporation are qualified to obtain a license under this ordinance. The license must be issued to the manager or agent of the corporation.

Section 5. Requirements for and processing of adult entertainment establishment license.

- (1) An application for a live adult entertainment establishment license shall be submitted to the City Clerk 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:
  - A 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;

- B 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;
- C 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;
- D Whether the applicant or a partner, corporate officer, or director of the applicant holds another license under this ordinance or a license for a similar live adult entertainment or sexually oriented business, including a motion picture theater and a panorama, whether from the City of University Place, another city, county, or state, and if so, the name and address of each other licensed business;
- E 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;
- 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 color 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 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.
- K. 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.
- L 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 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, 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, no later than 21 days following such acquisition. The notice to the clerk shall include the same information required for the original live 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 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.

- (7) A person granted a live adult entertainment establishment license pursuant to this ordinance 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.
- (8) Upon receipt of the complete application and fee, the clerk 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 thirty days of the date of 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. 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 ordinance or other ordinances of the city. A recommendation for denial shall cite the specific reason therefor, including applicable laws.
- (9) A live adult entertainment establishment license shall be issued by the clerk within thirty 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, 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 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 a live 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 thirty 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 that the license has been denied, but in no event may the clerk extend the application review time for more than an additional twenty days.

Section 6. Requirements and processing of applications for manager or entertainer license.

(1) 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 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:

- A 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.
- B The name and address of each live adult entertainment establishment 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 principal activities or services to be rendered.
- F 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.
- 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) 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.
- (4) A manager's or an entertainer's license shall be issued by the clerk within fourteen 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 live adult entertainment manager's license within fourteen 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 that the license has been denied, but in not event may the clerk extend the application review time for more than an additional twenty days.
- (5) 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

fails to approve or deny the application, in which case the temporary license is valid until the clerk approves or denies the application or until the final determination of an appeal from a denial of the application. The clerk may not extend the application review time for more than an additional twenty days.

Section 7. 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.

Section 8. Appeal of the denial of the issuance or renewal of a license.

- (1) An applicant may appeal the action of the clerk in refusing to issue or renew a license under his ordinance. The applicant must file a notice of appeal with the clerk within ten days of issuance of the notice of refusal to issue or renew. Appeals shall be heard by a Hearing Examiner. The hearing must be held within thirty 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 Hearing Examiner. The Hearing Examiner shall render a decision in writing within fifteen days of the close of the hearing.
- (2) An applicant may appeal a decision of the Hearing Examiner rendered under subsection (1) of this section by filing a petition for a writ of certiorari, prohibition or mandamus in the Pierce County Superior Court within ten days of the date the decision of the Hearing Examiner is mailed to the applicant.

Section 9. Standards of conduct and operation for live adult entertainment establishments.

- (1) 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:
  - A. 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 eighteen inches above the immediate floor level and removed at least eight feet from the nearest member of the public.

- B. 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 above, 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.
- C. 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.
- D. 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.
- E. An employee or entertainer shall not perform an actual or simulated act of sexual conduct or an act which constitutes a violation of RCW 7.48A, the Washington Moral Nuisances Statute, or any ordinance of the City regulating offenses against public morals.
- F. An employee mingling with a member of the public shall not conduct a dance, performance, or exhibition in or about the non-stage area of the live adult entertainment establishment unless that dance, performance, or exhibition is performed at a distance of at least four feet from the member of the public for whom the dance, performance, or exhibition is performed. The distance of four feet is measured from the torso of the dancer to the torso of the member of the public;
- G. 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 non-stage 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.

- (2) At a live adult entertainment establishment the following are required:
  - A. Admission must be restricted to persons of the age of eighteen 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 eighteen years to be in or upon the premises;
  - B. 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
  - C. 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.
- (3) The responsibilities of the manager of a live adult entertainment establishment include but are not limited to:
  - A. 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.
  - B. The licensed manager on duty shall not be an entertainer.
  - C. The manager or an assistant manager licensed under this ordinance 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 ordinance 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; and

- D. 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 ordinance.
- (4) A. The performance area of the live adult entertainment establishment where adult entertainment is provided shall be a stage or platform at least eighteen 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 five 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.
- B. 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.
  - C. A sign at least two feet by two feet with letter at least one inch high must be continuously displayed in the public area of the premises stating the following:

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.
- D. (i) All papers, records, and things required to be kept under this ordinance must be open to inspection by the clerk 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 ordinance.
- (ii) 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 during hours of operation of the business upon twenty-four hours' notice to the licensee.
- E In order to ensure compliance with this ordinance, 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 ordinance. Unannounced inspections are necessary to ensure compliance with this ordinance.
- (5) 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.
- (6) A. This ordinance does not prohibit:
- (i) Plays, operas, musicals, or other dramatic works which are not obscene.
  - (ii) Classes, seminars and lectures held for serious scientific or educational purposes and which are not obscene; or
  - (iii) Exhibitions, performances, expressions, or dances which are not obscene.



- B. The exemptions in subsection A of this section does not apply to sexual conduct as defined in Section 2 of this ordinance or the sexual conduct described in RCW 7.48A.010(2)(b)(ii) and (iii).
- C. Whether or not activity is obscene shall be determined by considerations of the standards set forth in RCW 7.48.010(2).

Section 10. License Expiration.

- (1) Every license issued under this ordinance 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 30 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.
- (2) Application for renewal of a license issued under this ordinance must be made to the clerk no later than thirty days before the expiration of a live adult entertainment establishment license and no later than fourteen days before the expiration for live adult entertainment manager's and entertainer's licenses. The clerk shall issue the renewal license in the same manner and on payment of the same fees as for an original application under this ordinance. The clerk 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:

<b>Days Past Due</b>	<b>Additional Percentage of License Fees</b>
7 - 30	25
31-60	50
61 and over	75

- (3) The clerk shall renew a license upon application provided that the application complies with the requirements of this ordinance unless the clerk is aware of a fact that would disqualify the applicant from being issued the license for which the applicant seeks renewal.
- (4) The clerk 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 Hearing Examiner.

Section 11. License suspension or revocation.

- (1) 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 ordinance:
  - A. If the license was procured by fraud or false representation of fact; or
  - B. For the violation of, or failure to comply with, the provisions of this ordinance 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
  - C. 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 RCW 69.50, or a violation of RCW 9.68A, 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 RCW Article 69.50, 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 twenty-four months of the decision to suspend or revoke the license.
- (2) The clerk shall revoke a license procured by fraud or misrepresentation. If another violation of this ordinance or other applicable ordinance, statute, or regulation is found, the license shall be suspended for thirty days upon the first violation, ninety days upon the second violation with a twenty-four-month period, and revoked for a third and subsequent violations within a twenty-four-month period, not including a period of suspension.
- (3) The clerk shall provide at least ten 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 Hearing Examiner and shall state the effective date of such revocation or suspension. A licensee who wishes to appeal the clerk's decision must file a notice of appeal with the clerk within ten days of the clerk's notice of the decision to suspend or revoke the license. The hearing must be conducted within forty-five days of the

filing of the notice of appeal under the rules and procedures of the City's Hearing Examiner. The Hearing Examiner shall render a decision within fifteen days following the close of the appeal hearing. A person aggrieved by the decision of the Hearing 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 ten days of the date the Hearing Examiners decision was mailed to the applicant. The decision of the clerk must be stayed during the pendency of an appeal under this ordinance except as provided in subsection 4 below.

4. 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 ordinance pending a hearing in accordance with subsection 3 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 Hearing Examiner under the same appeal provisions set forth in subsection 3 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.

Section 12. Liquor Control Board rules. A license issued under this ordinance 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 ordinance and the applicable rules of the Washington State Liquor Control Board, the rules of the Washington State Liquor Control Board control.

Section 13. Penalties. 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.

Section 14. Public Nuisance.

- (1) A live adult entertainment establishment operated, conducted or maintained in violation of this ordinance 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 ordinance, 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 ordinance.

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

Section 15. Remedies not exclusive. The remedies found in this ordinance 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 ordinance.

Section 16. Repealing Ordinances Nos. 102 and 134. Ordinances Nos. 102 and 134, which cover the same material as this ordinance, are hereby repealed.

Section 17. 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 shall not be affected.

Section 18. 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.

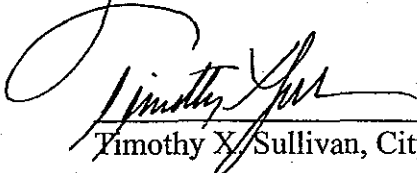
**PASSED BY THE CITY COUNCIL ON NOVEMBER 17, 1997.**

  
\_\_\_\_\_  
Linda Bird, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Susan Matthew, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Timothy X. Sullivan, City Attorney

**Published: 11/19/97**

**Effective Date: 11/24/97**