

ORDINANCE NO. 134

AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, RELATING TO ADULT ENTERTAINMENT BUSINESSES, AMENDING SECTIONS 3, 20, 22, 24, AND 25 OF ORDINANCE NO. 102 BY ADOPTING ADDITIONAL PROVISIONS RELATING TO VIOLATIONS, MANAGER ON PREMISES, STANDARDS OF CONDUCT AND OPERATION, PHYSICAL LAYOUT OF PREMISES AND NOTICE TO CUSTOMERS FOR ADULT ENTERTAINMENT BUSINESSES.

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. Amending Section 3 of Ordinance 102. Section 3 of Ordinance 102 is hereby amended to read as follows:

~~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 3. Violation.

1. Strict civil liability for managers and operators. Managers of adult cabarets shall be strictly liable, as set forth below, for any violation of this ordinance committed by other employees or agents of the adult cabaret, while in the adult cabaret. These civil violations shall be known as "Permitting Lewd Performance." Notice of any such violations shall be on a form prescribed by the Chief of Police.

A. During any time that a manager is on duty, the first violation committed by any employee or agent of the adult cabaret, including but not limited to entertainers and managers, shall result in a warning notice to such manager that he has committed the civil violation of Permitting Lewd Performance and that subsequent violations shall result in penalties pursuant to this section. Copies of any warning notices issued under this section shall also be sent or delivered to the operator(s).

B. During any time that a manager is on duty, the second violation committed within twelve consecutive months of the first, by any employee or agent of the adult cabaret, including but not limited to entertainers and managers, shall result in a civil penalty of a mandatory \$500 fine and a mandatory 60-day suspension of that manager's license. Notice of this violation shall be sent or delivered to the operator(s).

C. During any time that a manager is on duty, the third violation committed, within twelve consecutive months of the first, by any employee or agent of the adult cabaret, including but not limited to entertainers and managers, shall result in a civil penalty of a mandatory \$1,000 fine and a mandatory 120-day suspension of that manager's license. Notice of this violation shall be sent or delivered to the operator(s).

D. During any time that a manager is on duty, the fourth violation committed, within any period of twelve consecutive months, by any employee or agent of the adult cabaret, including but not limited to entertainers and managers, shall result in a mandatory civil penalty of a \$1,500 fine and a mandatory suspension of that manager's license for 180 days. Notice of this violation shall be sent or delivered to the operator(s).

2. An operator of an adult cabaret shall be deemed to have the knowledge, and to be strictly liable for the conduct, of its licensed managers, as set forth below. These civil violations shall be known as "Facilitating Lewd Operations." Notice of any such violations shall be on a form prescribed by the Chief of Police.

A. If any one or more licensed manager of an adult cabaret is found to have committed a total of two or more civil violations of Permitting Lewd Performance, during any 90-day period, the operator(s) shall be strictly liable for a civil penalty of \$5,000, and the adult cabaret license will be suspended for a 7 day period..

B. If any one or more licensed manager of an adult cabaret is found to have committed a total of six or more civil violations of Permitting Lewd performance, within any period of six consecutive months, the operator(s) shall be strictly liable for a civil penalty of \$5,000, and the adult cabaret license shall be suspended for a 21-day period.

C. If any one or more licensed manager of an adult cabaret is found to have committed a total of twelve or more civil violations of Permitting Lewd Performance, within any period of twelve consecutive months, the operator(s) shall be liable for a civil penalty of \$10,000 and the adult cabaret license shall be suspended for a period not less than 30 nor more than 90 days.

3. Any license suspension that extends beyond the end of a license year shall remain in effect, and any renewal license may be issued, but shall not be effective until the completion of the term of the license suspension.

4. Other than as specifically set forth in subsections (1) and (2) of this section, any person who knowingly violates any of the other provisions of this chapter is guilty of a gross misdemeanor punishable by a fine not to exceed \$5,000 or imprisonment not to exceed 365 days, or both.

Section 2. Amending Section 20 or Ordinance 102. Section 20 of Ordinance 102 is hereby amended to read as follows:

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.~~

At least two licensed managers shall be on the premises of an adult cabaret at all times that the adult cabaret is open to the public, and shall be clearly identified at all times by means of a nameplate reading "ON DUTY MANAGER" in type no less than one and one-half inches tall. Such nameplate shall be conspicuously affixed to the managers' clothing and clearly visible at all times. The names and licenses of the managers on duty shall be prominently posted and illuminated in an area open to the public during such managers shifts. The managers shall be responsible for verifying that any person who provides entertainment within the premises possesses a current and valid entertainer's license. At least one licensed manager shall have, at all times, a clear, continuous, and unobstructed view of all stages on which adult cabaret entertainment is permitted to occur and of all performance areas. While on duty, no manager shall provide entertainment or adult cabaret entertainment.

Section 3. Amending Section 22 of Ordinance 102. Section 22 of Ordinance No. 102 is hereby amended to read as follows:

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.~~

One-on-one entertainment between an entertainer and a patron shall occur only in a designated performance area and at least four feet away from any patron. The perimeter of each performance area must, at all times, be clearly and completely delineated by a solid strip at least three inches wide in a contrasting color to the floor. Any seating in a performance area shall be arranged to face the stage and shall be permanently affixed to the floor. A strip at least two inches wide and at least four feet long, in a contrasting color to the floor, shall, at all times, be affixed to the floor beginning at a point immediately under the center of the front edge of any seating in a performance area.

~~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.~~

No entertainer performing upon any stage or in a performance area shall be permitted to accept any money offered for any purpose directly to the entertainer by an member of the public. Any money offered to any entertainer performing upon a stage or in a performance area must be provided through a manager on duty on the premises. Money shall not otherwise be exchanged between entertainers and members of the public. It is a gross misdemeanor for an entertainer to directly accept money from a member of the public or for a member of the public to directly give money to an entertainer while in an adult cabaret.

Section 4. Amending Section 24 of Ordinance 102. Section 24 of Ordinance No. 102 is hereby amended to read as follows:

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.

C. Sufficient lighting shall be provided and equally distributed throughout the public areas of the premises so that all objects are plainly visible at all times to a person of ordinary eyesight.

D. No interior walls shall be allowed other than to segregate restrooms, employee dressing rooms, manager's office, or other areas reasonably necessary to the business operation

of the adult cabaret. No member of the public shall be allowed in any such segregated area, other than restrooms.

Section 5. Amending Section 25 or Ordinance No. 102. Section 25 or Ordinance No. 102 is hereby amended to read as follows:

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.~~

There shall be posted on each interior wall visible to the public, a well illuminated and conspicuously displayed sign, at least three feet long and two feet high, listing in letters at least one and one-half inches high, the following:

It is a crime for entertainers to:

1. Expose their breasts below the top of the areola, any portion of the pubic hair, buttocks, genitals or vulva and/or anus; or

2. Touch, fondle, or caress a patron or other person for the purpose of sexual arousal; and

It is a crime for patrons or other persons to:

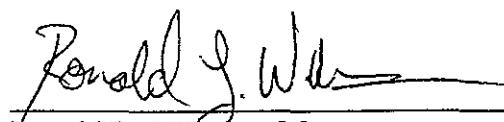
1. Touch, fondle, or caress any entertainer or other employee for the purpose of sexual arousal; and

2. Give directly to any entertainer, or for any entertainer to directly accept, any money from a member of the public, while on these premises.

Section 6. 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 JANUARY 6, 1997.



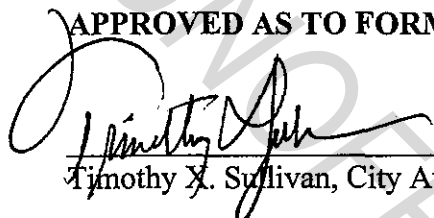
Ronald L. Williams, Mayor

ATTEST:



Susan Matthew, City Clerk

APPROVED AS TO FORM:



Timothy X. Sullivan, City Attorney

Published: January 10, 1997
Effective Date: January 15, 1997

UNOFFICIAL DOCUMENT