

**ORDINANCE NO. 51**

**AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE,  
WASHINGTON, ADOPTING BY REFERENCE CHAPTERS 9.16,  
OFFENSES AGAINST PUBLIC DECENCY, AND 9.20, OFFENSES  
AGAINST PUBLIC PEACE, OF THE PIERCE COUNTY CODE AS  
REGULATIONS OF THE CITY**

WHEREAS, the City of University Place will incorporate on August 31, 1995;  
and

WHEREAS, the City will be contracting with Pierce County to provide police services to residents of the City at least on an interim basis during the post incorporation period; and

WHEREAS, Pierce County deputy sheriffs are familiar with the Pierce County Code; and

WHEREAS, allowing Pierce County deputy sheriffs to continue to enforce certain Pierce County Code provisions within the City after incorporation both promotes the public welfare and allows police officers to make an orderly transition to the enforcement of criminal codes which the City of University Place will enact after incorporation; and

WHEREAS, the City wishes to adopt certain provisions of the Pierce County Criminal Code as regulations of the City, NOW, THEREFORE,

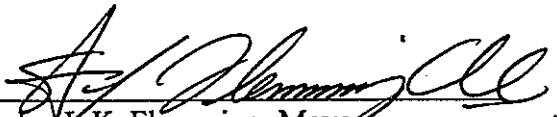
**THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE,  
WASHINGTON, DOES ORDAIN AS FOLLOWS:**

Section 1. Authority to adopt Pierce County Code. Pursuant to RCW 35A.12.140 and 35A.13.180, the City adopts by reference Chapters 9.16 and 9.20 of the Pierce County Code, as presently constituted or hereinafter amended, as presently constituted or hereinafter amended as regulations of the City.


Section 2. 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 3. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force on the date of incorporation.

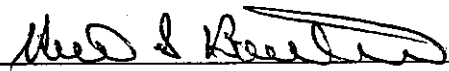
PASSED BY THE CITY COUNCIL ON AUGUST 21, 1995

  
Stanley L.K. Flemming, Mayor

ATTEST:

  
Susan Matthew, Interim City Clerk

APPROVED AS TO FORM:

  
City Attorney

Date of Publication: August 24, 1995

Effective Date: August 31, 1995

Chapter 9.16

OFFENSES AGAINST PUBLIC DECENCY

Sections:

Article I. Body Studios

- 9.16.010 Prohibited.
- 9.16.020 Defined.
- 9.16.030 Violation.

Article II. Prostitution

- 9.16.040 Unlawful Acts.
- 9.16.050 Known Prostitute or Panderer Defined.
- 9.16.060 Prostitution Defined - Sexual Activity Defined.
- 9.16.070 Violation.
- 9.16.075 Severability.

Article III. Lewd Conduct and Offenses  
Against Public Morals

- 9.16.080 Unlawful Public Exposure Prohibited.
- 9.16.090 Facilitating Unlawful Public Exposure Prohibited.
- 9.16.100 Exemptions.
- 9.16.110 Affirmative Defenses.

Article I. Body Studios

9.16.010 Prohibited.

From and after the effective date of the resolution codified in this article, it shall be unlawful for any person to operate, conduct, maintain, participate in, or advertise a body studio, or to knowingly be employed, participate in, or conduct any business on the premises of a body studio. (Prior Code § 35.03.010)

9.16.020 Defined.

"Body studio" means any premises, other than a massage parlor as defined in Pierce County Code Chapter 5.38 upon which is furnished for a fee or compensation the opportunity to paint, massage, feel, handle, caress or touch the unclothed body or an unclothed portion of the body of another person, or to be so painted, massaged, felt, handled, touched or caressed by another person, or to observe, view, photograph, film or videotape any such activity. (Prior Code § 35.03.020)

9.16.030 Violation.

Any person violating this article shall be guilty of a misdemeanor. (Prior Code § 35.03.030)

Article II. Prostitution

9.16.040 Unlawful Acts.

It is unlawful for anyone:

- A. To commit or offer or agree to commit an act of prostitution; or
- B. To secure or offer to secure another for the purpose of

committing an act of prostitution; or  
C. To knowingly transport a person into or within the County with purpose to promote that person's engaging in prostitution, or procuring or paying for transportation with that purpose; or  
D. To knowingly receive, offer or agree to receive another into any place or building for the purpose of performing an act of prostitution, or to knowingly permit another to remain there for any such purpose; or  
E. To direct another to any place for the purpose of committing an act of prostitution; or  
F. To knowingly in any way aid, abet or participate in an act of prostitution; or  
G. To loiter in or near any thoroughfare or place open to the public in any manner and under circumstances manifesting the purpose of committing, or inducing, enticing, soliciting or procuring another to commit, an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested: that such person is a known prostitute or panderer, repeatedly beckons to, stops or attempts to stop, or engages passersby in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture; or  
H. To patronize a prostitute. A person is guilty of patronizing a prostitute if.

1. Pursuant to a prior understanding, he/she pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with him/her; or
2. He/she pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such person will engage in sexual conduct with him/her; or
3. He/she solicits or requests another person to engage in sexual conduct with him/her in return for a fee.

(Ord. 86-121 § 1, 1986; Ord. 82-55 § 1 (part), 1982; prior Code § 35.05.010)

**9.16.050 Known Prostitute or Panderer Defined.**

For the purpose of this article, a "known prostitute or panderer" is a person who, within three years previous to the date of arrest for violation of this article, has within the knowledge of the arresting officer been convicted of violating any ordinance or law of any jurisdiction within the state of Washington defining and punishing acts of soliciting, committing, or offering or agreeing to commit prostitution. (Ord. 82-55 § 1 (part), 1982; prior Code § 35.05.020)

**9.16.060 Prostitution Defined - Sexual Activity Defined.**

For the purpose of this article, "prostitution" means engaging, agreeing to engage, or offering to engage for a fee, exchange, reward or promise in sexual activity, and "sexual activity" means:

- A. Sexual intercourse within its ordinary meaning, occurring

upon any penetration, however slight; and

B. Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes; and

C. Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex; and

D. Also means masturbation, manual or instrumental, of one person by another.

(Ord. 82-55 § 1 (part), 1982; prior Code § 35.05.030)

**9.16.070 Violation.**

Any person convicted for violation of or failure to comply with any provisions of this article shall be guilty of a misdemeanor.

(Ord. 85-52 § 1, 1985; Ord. 82-55 § 1 (part), 1982; prior Code § 35.05.040)

**9.16.075 Severability.**

If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of the Chapter or the application of the provision to other persons or circumstances shall not be affected. (Ord. 89-155 § 18, 1989)

**Article III. Lewd Conduct and Offenses Against Public Morals**

**9.16.080 Unlawful Public Exposure Prohibited.**

A. It shall be unlawful for any person to intentionally commit any act constituting unlawful public exposure.

B. "Public exposure" means the act of revealing, exhibiting or otherwise rendering certain parts of the human body open to public view.

C. "Unlawful public exposure" means:

1. A public exposure of any portion of the human anus or genitals;
2. A public exposure of any portion of the female breast lower than the upper edge of the areola; or
3. A public exposure consisting of touching, caressing or fondling of the male or female genitals or female breasts, whether clothed or unclothed.

(Ord. 84-172 § 3 (part), 1984; Ord. 83-28 § 1 (part), 1983; prior Code § 35.02.306)

**9.16.090 Facilitating Unlawful Public Exposure Prohibited.**

A. It shall be unlawful for the owner, lessee, manager, operator or other person in charge of any public place to knowingly permit, encourage, or cause to be committed, whether by commission or omission, any unlawful public exposure upon said premises.

B. "Public place" means any place in which the general public has a right to be present, whether or not conditioned upon payment of a fee, and includes, but is not limited to, buildings open to the general public, whether or not access

is restricted according to age, including those in which food or drink is served, or entertainment provided.  
(Ord. 84-172 § 3 (part), 1984; Ord. 83-28 § 1 (part), 1983; prior Code § 35.02.307)

**9.16.100 Exemptions.**

The prohibitions set forth in Sections 9.16.080 and 9.16.090 shall not apply to the following:

- A. Play, opera, musical or other dramatic work;
- B. Class, seminar or lecture conducted for a scientific or educational purpose;
- C. Nudity within a locker room or other similar facility used for changing clothing in connection with athletic or exercise activities;
- D. "Expressive dance" which means any dance which, when considered in the context of the entire performance, constitutes an expression of theme, story or ideas, but excluding any dance such as, but not limited to, common barroom-type topless dancing which, when considered in the context of the entire performance, is presented primarily as a means of displaying nudity as a sales device or for other commercial exploitation without substantial expression of theme, story or ideas.

(Ord. 84-172 § 3 (part), 1984; Ord. 83-28 § 1 (part), 1983; prior Code § 35.02.308)

**9.16.110 Affirmative Defenses.**

It is an affirmative defense to a prosecution for violation of Sections 9.16.080 and 9.16.090 that the nudity or other public exposure, when considered in the context in which presented, provided actual literary, artistic, political or scientific value and was not provided for commercial or sexual exploitation or with an emphasis on an appeal to a prurient interest. (Ord. 84-172 § 3 (part), 1984; Ord. 83-28 § 1 (part), 1983; prior Code § 35.02.309)

Chapter 9.20

OFFENSES AGAINST PUBLIC PEACE

Sections:

- 9.20.010 Encouraging Fighting.
- 9.20.030 Loitering on Schoolgrounds.
- 9.20.040 Loitering With the Intent to Engage in Drug-Related Activity.
- 9.20.050 Considerations.
- 9.20.060 Chapter Cumulative.
- 9.20.070 Severability.
- 9.20.080 Violation-Penalty.

**9.20.010 Encouraging Fighting.**

Any person fighting or encouraging others to fight in any public place is guilty of a misdemeanor. (Ord. 84-172 § 3 (part), 1984; prior Code § 35.02.100)

**9.20.030 Loitering on Schoolgrounds.**

Every person, except a person enrolled as a student in, or parents or guardians of such students or person employed by such school or institution, who without a lawful purpose therefor wilfully loiters about the building or buildings of any public or private school or institution of higher learning or the public premises adjacent thereto at a time when school is in session, or when organized school sanctioned activities are in progress, is guilty of a misdemeanor. (Ord. 84-172 § 3 (part), 1984; prior Code § 35.02.320)

**9.20.040 Loitering With the Intent to Engage in Drug-Related Activity.**

It is unlawful for any person to loiter in or near any thoroughfare, place open to the public, or near any public or private place with the intent to engage in drug-related activity contrary to any of the provisions of Chapter 69.41, 69.50, or 69.52 of the Revised Code of Washington. (Ord. 88-161 § 1 (part), 1988)

**9.20.050 Considerations.**

In the context of Section 9.20.040, included among the circumstances which may be considered in determining whether such intent to engage in drug-related activity is manifested, but not limited thereto, are:

A. Such person is a known unlawful drug user, possessor, or seller. For purposes of this Chapter, a "known unlawful drug user, possessor, or seller" is a person who has, within the knowledge of the arresting officer, been convicted in any court within this state of any provisions referred to in Chapter 69.41, 69.50, or 69.52 of the Revised Code of Washington within the last five (5) years, or substantially similar laws of any political subdivision of this state within the last five (5) years, or any other similar laws of any other state within the last five (5) years; or a person

who displays physical characteristics of drug intoxication or usage, such as "needle tracks"; or a person who displays drug paraphernalia as defined in Section 69.50.102 of the Revised Code of Washington; or

B. Such person is currently subject to a court order prohibiting his/her presence in a high drug-activity geographic area; or

C. Such person transfers or exchanges small objects, packages, or currency in a furtive fashion; or

D. Such person takes flight in response to the appearance of a police officer or such person manifestly endeavors to conceal himself or herself or any object which reasonably could be involved in unlawful drug-related activity; or

E. Such person is in or near a geographic area known by law enforcement to be an area wherein unlawful drug-related activity occurs; or

F. Such person is in a place open to the public or near any public or private place known to law enforcement to be a place wherein unlawful drug-related activity occurs; or

G. Such person has an outstanding warrant for a crime involving unlawful drug-related activity, or any vehicle involved is registered to a known unlawful drug user, possessor, or seller, or registered to a person for whom there is an outstanding warrant for a crime involving drug-related activity.

(Ord. 88-161 § 1 (part), 1988)

**9.20.060 Chapter Cumulative.**

The provisions of this Chapter are not intended to repeal any other ordinance or statute involving the same subject matter.  
(Ord. 88-161 § 1 (part), 1988)

**9.20.070 Severability.**

If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of the Chapter or the application of the provision to other persons or circumstances is not affected. (Ord. 88-161 § 1 (part), 1988)

**9.20.080 Violation - Penalty.**

Any person who violates the provisions of this Chapter is guilty of a misdemeanor, and upon conviction shall be imprisoned for up to ninety (90) days and be subject to a fine of not more than \$1,000.00. (Ord. 88-161 § 1 (part), 1988)