ORDINANCE NO. 3216

AN ORDINANCE of the City Council of the City of Kent, Washington, relating to land use and zoning of adult entertainment businesses, extending a moratorium on the issuance of permits and on the acceptance of applications for permits for adult entertainment businesses as defined in KCC Title 5 for one additional six month term pursuant to RCW 35A.63.220; and further declaring a public emergency necessary for the protection of public health, safety, property and peace.

WHEREAS, the City's adult entertainment zoning restrictions were found deficient by the U.S. District Court for the Western District of Washington because adult entertainment businesses were denied reasonable alternative sites within which adult entertainment businesses could locate; and

WHEREAS, the City needed time to revise its present zoning restrictions and determine how to provide reasonable alternative sites for the location of adult entertainment businesses consistent with the court's ruling; and
WHEREAS, the City Council finds that there are negative secondary effects associated with adult entertainment businesses which constitute a threat to the public health, safety and welfare; and

WHEREAS, the public health, safety and welfare would be jeopardized by the establishment of adult entertainment businesses prior to adoption of new zoning legislation by Council; and

WHEREAS, any changes to the zoning code must also consider changes in zoning regulations adopted pursuant to the Growth Management Act, RCW 36.70A; and

WHEREAS, the City Council finds that the protection of the public health, safety and welfare supports imposing a moratorium on adult entertainment businesses pending appropriate amendments consistent with the ruling of the U.S. District Court Cause No. C94-256Z; and

WHEREAS, pursuant to RCW 35A.12.130, the City Council may, by a vote of majority plus one of the Council, adopt a public emergency ordinance for the protection of public health, public safety, public property or public peace; and
WHEREAS, since the court ruled that the City's zoning code restrictions failed to provide reasonable alternative sites for the location of adult use businesses, the City cannot properly accept and process applications for such facilities; and

WHEREAS, on September 20, 1994, the City Council adopted an emergency ordinance establishing a six month moratorium on the acceptance of permit applications and the issuance of permits for adult entertainment businesses; and

WHEREAS, the City has not been able to complete its review of zoning changes regarding adult entertainment businesses within the term of the moratorium and therefore finds it necessary to extend the moratorium to allow for completion of this review; and

WHEREAS, pursuant to RCW 35A.12.130, the City Council also finds that, due to the negative secondary effects associated with adult entertainment businesses, an emergency ordinance is necessary for the protection of public health, public safety, public property, and public peace; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:
SECTION 1. The above listed recitals are found to be true and correct in all respects.

SECTION 2. As a result of the ruling of the U.S. District Court for the Western District in Cause No. C94-256Z and due to the negative secondary effects associated with adult entertainment businesses, an emergency situation exists necessitating immediate action and that a public emergency ordinance is the appropriate and necessary action to take for the protection of public health, public safety, public property, and public peace.

SECTION 3. Due to the findings set forth herein and as authorized pursuant to RCW 35A.63.220, the land use moratorium prohibiting the issuance of permits and acceptance of permit applications for adult entertainment businesses adopted by Ordinance 3185, is hereby extended for one additional six month term expiring six months from the date of adoption hereof or until the effective date of any ordinance establishing new regulations governing the location of adult entertainment businesses, whichever is sooner, and during said moratorium, no use permit shall be issued nor shall any use or permit application be accepted for any adult entertainment business as defined in KCC Title 5.
SECTION 4. As a result of the ruling and order of the U.S. District Court for the Western District in Cause No. C94-256Z, the plaintiff in said case shall not be affected by the extended moratorium established herein for the proposed adult entertainment use on the property identified in the order.

SECTION 5. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

SECTION 6. Effective Date. This emergency ordinance shall take effect and be in force immediately upon adoption.

JIM WHITE, MAYOR

BRENDA JACOBER, CITY CLERK
APPROVED AS TO FORM:

ROGER A. LUBOVICH, CITY ATTORNEY

PASSED 4th day of April, 1995.
APPROVED 5th day of April, 1995.
PUBLISHED 7th day of April, 1995.

I hereby certify that this is a true copy of Ordinance No. 32/6, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENDA JACOBER, CITY CLERK

(SEAL)