ORDINANCE NO. 3242

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 until January 15, 1996, 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 as applied, the Kent Zoning restrictions denied adult entertainment businesses reasonable alternative sites within which to 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 found that the protection of the public health, safety and welfare supported 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, as applied, 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, during the moratorium period, the City of Kent Planning Commission has conducted workshops and held public hearings to address amending it’s adult entertainment zoning regulations; and
WHEREAS, the deliberations of the Kent Planning Commission extended beyond the initial 6 month moratorium; and

WHEREAS, expiration of the initial moratorium prior to the implementation of an amendment to the zoning code creates a continuing threat to the public health, safety, property and peace; and

WHEREAS, to avoid exposing the City to the negative secondary effects associated with adult entertainment businesses and to accommodate the continued deliberations on zoning code amendments for adult entertainment zoning, the City Council declared an emergency and extended the moratorium on April 4, 1995, for an additional 6 month period, pursuant to RCW 35A.63.220; and

WHEREAS, the City has not been able to complete 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 completion of this review; and

WHEREAS, the matter is scheduled to be brought before the Kent Planning Committee for discussion and action and thereafter to be brought before the full council for action on December 12, 1995; and

WHEREAS, the moratorium must therefore be extended until January 15, 1996, to allow the process to be completed; 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 and extended by Ordinance 3216 is hereby extended until January 15, 1996, 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

ROGER A. LUBOVICH, CITY ATTORNEY

PASSED 19th day of September, 1995.
APPROVED 20th day of September, 1995.
PUBLISHED 22nd day of September, 1995.

I hereby certify that this is a true copy of Ordinance No. 3242, 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