Ordinance No. 3275

["Beginning July 1, 1998"]

(Amending or Repealing Ordinances)

CFN=175-Business License
Passed 1/2/1996
Zoning Setback Restrictions for Adult Uses

Amended by Ord. 3612
Amended by Ord. 3770
ORDINANCE NO. 3275

AN ORDINANCE of the City Council of the City of Kent, Washington, regarding the amendment of the zoning setback restrictions for adult uses.

WHEREAS, the secondary effects of the activities defined and regulated in Chapter 5.10 of the Kent Zoning Code are detrimental to the public health, safety and general welfare of the citizens of the City, and, therefore, such activities must be regulated as provided in Chapter 5.10 of the Kent City Code; and

WHEREAS, 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, narcotics, and liquor law violations, breaches of the peace and the presence within the industry of individuals with hidden ownership interests and outstanding arrest warrants; and

WHEREAS, contact between entertainers and patrons of adult entertainment businesses facilitates prostitution and other related crimes and the concern over unlawful sexual activities and related crimes as a legitimate health concern of the City
which demands reasonable regulation of adult entertainment businesses in order to protect the health and being of the citizens; and

WHEREAS, in the absence of regulation, the activities described in this section occur regardless of whether the adult entertainment is presented in conjunction with the sale of alcoholic beverages; and

WHEREAS, the City Council of the City of Kent desires to prevent these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life, preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight; and

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by the First Amendment or Article I, Section 5 of the Washington State Constitution, but to enact content neutral regulations which address the secondary effects of the adult entertainment businesses, as well as the health problems associated with such businesses; and

WHEREAS, the City's adult entertainment zoning restrictions were recently found, by the U.S. District Court for the Western District of Washington, to deny adult entertainment businesses reasonable alternative avenues of communication by not providing an adequate number of alternative sites for the location for such facilities; and
WHEREAS, the City has reviewed the legislative history which supports the City of Kent's adult use zoning setback restrictions; and

WHEREAS, the legislative history supports a finding that there are negative secondary effects associated with the operation of adult entertainment businesses within 1,000 feet of churches, parks, schools, libraries and residential zones; and

WHEREAS, the legislative history, in support of the zoning setback restrictions for adult entertainment businesses, do not indicate that there are negative secondary effects associated with the operation of adult entertainment businesses within 1,000 feet of legal non-conforming residential or multi-family uses in commercial zones; NOW THERFORE

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. Section 15.08.270 is hereby amended as follows:

Sec. 15.08.270. Adult uses.

A. Adult uses, as defined in section 15.02.008, are prohibited within the area circumscribed by a circle which has a
radius consisting of the following distances from the following specified uses or zones:

1. Within one thousand (1,000) feet of any residential zone (RA, A-1, AG, R1-7.2, R1-9.6, R1-12, R1-20, MR-D, MR-G, MR-M, MR-H and MHP as provided in chapter 15.09) or any single- or multiple-family residential use.

2. Within one thousand (1,000) feet of any public or private school.

3. Within one thousand (1,000) feet of any church or other religious facility or institution.

4. Within one thousand (1,000) feet of any public park.

5. Within one thousand (1,000) feet of any public library.

B. The distances provided in this section shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property or parcel upon which the proposed use is to be located, to the nearest point of the parcel of property or the land use district boundary line from which the proposed land is to be separated.

C. Violation of the use provisions of this section is declared to be a public nuisance per se, which shall be abated by the city attorney under state law, including procedures set forth in section 15.09.090.
D. Nothing in this section is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any city ordinance or statute of the state regarding public nuisances, sexual conduct, lewdness or obscene or harmful matter or the exhibition or public display thereof.

SECTION 3. 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 4. Effective Date. This ordinance shall take effect and be in force five (5) days from and after its publication as provided by law.

JIM WHITE, MAYOR

ATTEST: BRENDA JACOBER, CITY CLERK
APPROVED AS TO FORM:

ROGER A. LUBOVICH, CITY ATTORNEY

PASSED ___ day of __________, 1996.
APPROVED ___ day of __________, 1996.
PUBLISHED ___ day of __________, 1996.

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

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