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Adult Entertainment
Moratorium on permits and
applications

ORDINANCE NO. 1822

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, RELATING TO LAND USE AND ZONING, DECLARING A PUBLIC HEALTH, WELFARE AND SAFETY EMERGENCY NECESSITATING AN IMMEDIATE MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR USE PERMITS, BUILDING PERMITS AND LICENSES FOR ADULT ENTERTAINMENT USES AND BUSINESSES TO BE EFFECTIVE FOR A PERIOD OF ONE YEAR, AND SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM.

WHEREAS, the state and federal constitutions allow for regulation of adult entertainment businesses in a manner which ensures protection of city businesses and neighborhoods from the secondary land use impacts of adult entertainment businesses; and

WHEREAS, there is increasing evidence that the use of property to operate, conduct or maintain adult use establishments is a use which, because of its very nature, has serious objectionable operational characteristics. These operational characteristics include a wide range of criminal and other unlawful activities that have regularly and historically occurred near adult use establishments. The unlawful secondary impacts of adult use establishments include prostitution, narcotics and liquor law violations, breaches of the peace, assaults, and sexual conduct involving contact between patrons, and between entertainers and patrons, some of whom have been minors.

WHEREAS, there is evidence from the experiences of other cities that adult entertainment businesses constitute a threat to the public health, safety and welfare of the citizens of Redmond, especially minors; and

WHEREAS, the need to protect minors from the unlawful activities associated with the operation of adult use establishments is compelling, and the objectionable characteristics associated with adult use establishments also include declines in adjacent property values, neighborhood blight, and other secondary impacts that threaten the quality of life; and

WHEREAS, a recent court decision concerning the adult use zoning regulations for King County appears to establish an obligation on the part of local jurisdictions to continuously update the land availability for adult uses in order to maintain sufficient available sites; and

WHEREAS, a cursory review of the City's existing zoning regulations on adult uses does not provide assurance that the regulations are currently providing sufficient sites for adult use, and therefore the City will need time and money to prepare a review and study of the same; and

WHEREAS, a cursory review of the City's existing adult use zoning regulations also raises some questions concerning the definitions of adult businesses, and inclusion of all schools involving minors, and measurements clarifications, and this will need to be reviewed carefully and analyzed in determining what are the available adult use sites and the City will need significant time to accomplish this; and

WHEREAS, the City is currently undertaking a complete review and update of its community development regulations which take into account zoning and other such

regulations of adult uses and this revision to the community development regulations should be completed in the next 6 to 10 months; and

WHEREAS, although the City presently has licensing and operational regulations in place, it is uncertain whether they adequately and specifically address the secondary land use impacts of adult entertainment businesses, especially given recent developments of the law and new studies of other jurisdictions regarding such uses; and

WHEREAS, the City of Redmond will be undertaking a study of adult entertainment zoning and related issues for the purpose of determining the manner in which the City may regulate adult entertainment businesses to ameliorate their secondary land use impacts; and

WHEREAS, in the absence of this ordinance, an adult business could establish vested rights to locate and operate in areas of the City in such a manner as to be contrary to or inconsistent with the proposed protection of public health safety and welfare; and

WHEREAS, there is an urgent need, pending the completion of a study and the possible adoption of new zoning, operational and licensing requirements for adult entertainment businesses and uses, to preserve the status quo; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. Definitions. For the purpose of this ordinance, the following definitions shall apply:

A. "Adult entertainment business" or "adult entertainment use" means:

1. A nightclub, bar, restaurant, theater, concert hall, auditorium, or similar commercial establishment that regularly features live performances by nude or semi-nude persons.
2. An adult cabaret, which is a commercial establishment that presents go-go dancers, strippers, male or female impersonators or similar entertainers and that excludes any persons by virtue of age from all or any portion of the premises.
3. An adult drive-in theater, which is a drive-in theater where at least twenty-five percent of the use is for the presentation, for commercial purposes, of motion picture films, video cassettes, cable television, or any other like visual media, distinguished or characterized by a predominant emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, excluding those films rated G, PG, PG-13, NC-13, NC-17, or R by The Motion Picture Association of America.
4. An adult motion picture theater, which is an enclosed building where at least twenty-five percent of the use is for the presentation, for commercial purposes, of motion picture films, video cassettes, cable television, or any other like visual media, distinguished or characterized by a predominant emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas, for observation by patrons

therein, except those films or pictures, etc. that are rated G, PG, PG-13, NC-13, NC-17, or R by The Motion Picture Association of America.

5. An adult bookstore, which is a retail establishment in which:
 - (a) fifty percent or more of the stock in trade consists of books, magazines, posters, pictures, periodicals or other printed material distinguished or characterized by a predominant emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas; or
 - (b) Any person is excluded by virtue of age from all or part of the premises generally held open to the public where books, magazines, posters, pictures or other printed material distinguished or characterized by a predominant emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas are displayed or sold.

6. An adult retail store, which is a retail establishment in which:
 - (a) Fifty percent or more of the stock in trade consists of items, products, or equipment distinguished or characterized by a predominant emphasis on or simulation

of specified sexual activities or specified anatomical areas;
or

- (b) Any person is excluded by virtue of age from all or part of the premises generally held open to the public where products or equipment distinguished or characterized by a predominant emphasis on or simulation of specified sexual activities or specified anatomical areas are displayed or sold.

7. An adult video store, which is a retail establishment in which:

- (a) Fifty percent or more of the stock in trade consists of prerecorded video tapes, discs, or similar material distinguished or characterized by a predominant emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas; or
- (b) Any person is excluded by virtue of age from all or part of the premises generally held open to the public where prerecorded video tapes, discs, or similar material distinguished or characterized by a predominant emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas are displayed or sold.

8. "Panoram," "preview," "picture arcade" and "peep show" mean any type of device which, for payment of a fee, membership fee, or other charge, is used to exhibit, project, illuminate or display a photographed, videotaped or magnetically reproduced image, picture, view, live entertainment, or other graphic display distinguished or characterized by a predominant emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

B. "Semi-nude" means a state of dress that, with respect to a person's torso, opaquely covers only the buttocks, anus, genitals, and areola of the breasts, as well as portions of the body covered by supporting straps or devices.

C. "Specified anatomical areas" mean:

1. less than completely or opaquely covered: (i) human genitals, pubic region; or (ii) buttock; or (iii) female breast exposing any part of the areola.
2. human male genitals in a discernibly turgid state, even if completely or opaquely covered.

D. "Specified sexual activities" means:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, fellatio, cunnilingus, sexual intercourse, or sodomy; and

3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

E. "Stock in trade" means the greater of:

1. the retail dollar value of all prerecorded video tapes, discs, books, magazines or similar material readily available for purchase, rental, viewing, or use by patrons of the establishment, excluding material located in any storeroom or other portion of the premises not regularly open to patrons; or
2. the total number of titles of all prerecorded video tapes, discs, books, magazines or similar material readily available for purchase, rental, viewing or use by patrons of the establishment excluding material located in any storeroom or other portion of the premises not regularly open to patrons.

Section 2. Purpose. The City Council acknowledges that other cities have found that adult entertainment businesses have been associated with prostitution, disruptive conduct, criminal activity and other secondary land use impacts which threaten the quality of life in commercial and residential neighborhoods, and generally may constitute a threat to the public health, safety and welfare.

Section 3. Moratorium Imposed. The City Council hereby imposes a moratorium on the establishment, location or licensing of adult entertainment uses or adult entertainment businesses in the City, for a period of one year beginning on the effective date of this ordinance. During this period, the Planning Commission is directed to develop a work plan to study the

issue, hold public hearings as needed, determine if there are secondary land use impacts related to adult entertainment uses or adult entertainment businesses, determine the nature of these impacts on the City, and to develop recommendations for future action to address these impacts, which action may include proposed regulations for adult entertainment uses or adult entertainment businesses. The Planning Commission shall return its work plan to the City Council at least two weeks prior to the date of the public hearing set in Section 5 herein. In addition, the Planning Commission shall return its final recommendations to the City Council within 300 days of the effective date of this ordinance.

Section 4. Effective Period. For a period of one year from the effective date of this ordinance, or until new land use and/or business licensing regulations governing the location and operation of adult entertainment uses and businesses take effect, whichever is sooner, no required City business license, use permit or building permit, which is applied for after the effective date of this ordinance, shall be accepted or issued for any adult entertainment business or adult entertainment use as defined herein.

Section 5. Public Hearing on Moratorium. Pursuant to RCW 36.70A.390, the City Council shall hold a public hearing on this moratorium within sixty (60) days of its adoption, or on March 7, 1995. Immediately after the public hearing, the City Council shall adopt findings of fact on the subject of this moratorium, and either justify its continued imposition or cancel the moratorium.

Section 6. Severability. If any section, subsection, sentence, clause, phrase or word of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or

constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

Section 7. Effective Date/Emergency declared. Based on the information provided in the introduction of this ordinance, the council finds that an emergency exists in that unless this ordinance takes effect immediately adult use establishments with harmful secondary impacts may seek or gain licensing or building permit approval before a constitutionally sufficient permanent ordinance is enacted following the update, review and studies called for in this ordinance. This ordinance is necessary for the immediately preservation of public peace, health or safety or for the support of City government and its existing public institutions and shall take effect and be in full force immediately upon its unanimous passage by the members of the City Council and that the same shall not be subject to referendum.

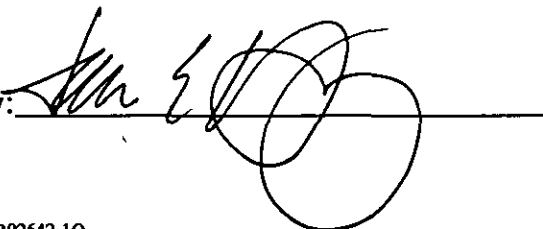
CITY OF REDMOND


MAYOR ROSEMARIE IVES

ATTEST/AUTHENTICATED:


CITY CLERK, DORIS SCHAIBLE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: 

FILED WITH THE CITY CLERK: January 17, 1995
PASSED BY THE CITY COUNCIL: January 17, 1995
SIGNED BY THE MAYOR: January 17, 1995
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Ordinance 1822 was submitted to the Redmond Sammamish Valley News for publication on January 25, 1995. An error occurred and the ordinance was not published. The mistake was made inadvertently and The Redmond Sammamish Valley News apologizes.

Ordinance 1822 will be published February 1, 1995.

Thank you.

Sincerely,

Nicole Dubois