

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5189

AN ORDINANCE amending Ordinance No. 3884, Section 2, Ordinance No. 4536, Section 1; and Bellevue Land Use Code Section 20.20.127; adding child day care centers and public libraries as uses protected from location near adult retail businesses; and amending Ordinance No. 3884, Section 3; and Bellevue Land Use Code Section 20.50.010, changing the definition of adult retail business.

WHEREAS, the City Council is committed to protecting the general welfare of the City through the enforcement of laws prohibiting obscenity, indecency, and sexual offenses while preserving constitutionally protected forms of expression;

WHEREAS, the City has made a detailed review of the national record, including studies from the cities of New York, Indianapolis, and Los Angeles, the police records of various cities, and court decisions regarding adult retail establishments. The City Council finds that adult retail establishments require special supervision from the public safety agencies in order to protect and preserve the health, safety, and welfare of the patrons and employees of said business as well as the citizens of the City; and

WHEREAS, the City Council finds that concerns about crime and public sexual activity generated and/or occurring within or nearby the adult retail establishments are legitimate, substantial and compelling concerns of the City which demand reasonable regulation; and

WHEREAS, the City Council finds that adult retail establishments, due to their nature have secondary adverse impacts upon the health, safety, and welfare of the citizenry through increases in crime and opportunity for spread of sexually transmitted diseases; and

WHEREAS, there is convincing documented evidence that adult retail establishments have a detrimental effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime, the downgrading of quality of life and property values and the spread of urban blight. Reasonable regulation of the location of these facilities will provide for the protection of the community, protect residents, patrons, and employees from the adverse secondary effects of such retail facilities; and

WHEREAS, the City recognizes that adult retail establishments due to their very nature have serious objectionable operational characteristics, particularly when located in close proximity to residential neighborhoods, daycare centers, religious facilities, public parks, and schools, thereby having a deleterious impact upon the quality of life in the surrounding areas. It has been acknowledged by courts and communities across the nation that state and local governmental entities have a special concern in regulating the operation of such businesses under their jurisdiction to ensure the adverse secondary effects of the establishments are minimized;

WHEREAS, this ordinance is intended to protect the general public health, safety, and welfare of the citizenry of the City through the regulation of the location of adult retail establishments. The regulations set forth herein are intended to control health, safety, and welfare issues, the decline in neighborhood conditions in and around adult retail establishments, and to isolate dangerous and unlawful conduct associated with these facilities;

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by the First Amendment to the United States Constitution, or Article 1, Section 5 of the Washington State Constitution, but to enact content neutral legislation which addresses the negative secondary impacts of adult retail establishments; and

WHEREAS, it is not the intent of the City Council to condone or legitimize the distribution of obscene material, and the City Council recognizes that state and federal law prohibit the distribution of obscene material; and

WHEREAS, the City Council at its duly noticed public hearing on December 6, 1999, considered the subject matter of adult retail establishments, at which public hearing the City Council received comments from the public on that subject matter, which the City Council believes to be true, and which, together with the findings heretofore set forth as the basis for the enactment of Ordinance No. _____, form the basis for the adoption of this ordinance, now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Ordinance No. 3884, Section 2, Ordinance No. 4536, Section 1, and Bellevue Land Use Code Section 20.20.127 are hereby amended as follows:

20.20.127 Adult entertainment uses.

A. Adult entertainment uses are prohibited within 660 feet of any residential land use district (R-1 – R-30), single or multiple-family residence, public or private school (preschool – twelfth grade), religious facility, public park, child care service, child day care center, public library, community youth center, massage parlor, or other adult entertainment use.

B. Massage parlors are prohibited from locating within 660 feet of any existing adult entertainment use, and adult entertainment uses are prohibited from locating within 660 feet of any existing massage parlor.

C. The 660-foot distance shall be a straight horizontal line, measured from the nearest point of that portion of a lot proposed to be used for an adult entertainment use, (generally, the enclosed building or indoor leased space, excluding for example, parking areas, landscaping or tenant common areas) to the nearest point of:

1. That portion of a lot used for another adult entertainment use;
2. A lot owned, leased, or that portion of a lot leased (excluding common areas), for a residence, public or private school (preschool – twelfth grade), religious facility, public park, child care service, child day care center, public library, or community youth center; or

3. A residential land use district (R-1 – R-30).

Section 2. Ordinance No. 3884, Section 3, and Bellevue Land Use Code Section 20.50.010 are hereby amended in part as follows:

20.50.010 A definitions.

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Adult Retail Establishment. A retail establishment in which a substantial portion of the “stock in trade” (under either definition A or B under LUC 20.50.046) consists of merchandise distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to “specified sexual activities” or “specified anatomical areas,” or a retail establishment which has as one of its principal purposes, the sale, exchange, rent, loan, trade, transfer, and/or viewing of merchandise distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to “specified sexual activities” or “specified anatomical areas.” The term “merchandise” as used above includes but is not limited to the following: books, magazines, posters, cards, pictures, periodicals, or other printed matter; prerecorded video tapes, discs, film or other such medium; instruments, devices, equipment, paraphernalia or other such products.

Section 3. This Ordinance shall take force and be in effect five days after its passage and legal publication.

Passed by the City Council this 6th day of December, 1999, and signed in authentication of its passage this 6th day of December, 1999.

(SEAL)

Mike Creighton, Mayor

Approved as to form:
Richard L. Andrews, City Attorney

Lori M. Riordan, Assistant City Attorney
Attest:

Myrna L. Basich, City Clerk
Published December 10, 1999