

November 29, 1995
MORAEXT2.ORD (JMS)

Introduced By:

Proposed No.:

95 - 813

ORDINANCE NO. **12085**

AN ORDINANCE relating to adult use establishments, and extending the moratorium enacted by Ordinance No. 11825 on applications for permits and licenses concerning adult use establishments .

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings. Based on evidence, information, documents and materials submitted to and reviewed by the Metropolitan King County Council, including the record supporting passage of Ordinance 9915, the Metropolitan King County Council makes the following findings of fact:

A. The findings contained in Ordinance 11825, Section 1 are incorporated herein by reference.

B. In response to the concerns evidenced by those findings, the council enacted Ordinance 11825 to extend a temporary moratorium, originally imposed by Ordinance 11647, on the issuance of building permits, the acceptance of building permit applications, the issuance of business licenses, and the acceptance of business license applications for adult use establishments and facilities. By its terms, Ordinance 11825 expires on January 3, 1996.

C. Since enactment of Ordinance 11825, King County has undertaken extensive review of existing zoning and licensing requirements and has taken the following steps toward enactment of an ordinance that fulfills the purposes and policies embodied in Ordinance 9915 while safeguarding constitutionally-protected rights to free speech:

1 (1) The Department of Development and
2 Environmental Services (DDES) evaluated the effects of
3 various distance and use setback scenarios to determine
4 eligible sites to achieve separation from minors and minimize
5 harmful secondary effects while providing ample alternative
6 channels for constitutionally protected expression.

7 (2) Outreach with stakeholders occurred on the
8 issue of adult entertainment, including, meeting with
9 commercial and industrial representatives concerning the
10 impact of allowing adult use establishments in industrially
11 zoned areas of unincorporated King County.

12 (3) The executive, in consultation with the
13 prosecuting attorney's office, developed a report of the
14 current adult use entertainment regulations and alternative
15 methods of addressing the harmful secondary effects of such
16 establishments.

17 (4) The executive developed an ordinance amending
18 the King County zoning code relating to adult use facilities.

19 (5) The executive reviewed the proposed zoning
20 amendments pursuant to the State Environmental Protection Act
21 (SEPA), made a determination of non-significance, and
22 published this determination; no public comments were
23 received during the appeal period for this determination.
24 The proposed zoning amendments were also submitted to the
25 state pursuant to the 60 day notice requirement under the
26 Growth Management Act.

27 (6) The executive transmitted a report of the
28 current adult use entertainment regulations and alternative
29 methods of addressing these establishments with a proposed

1 ordinance amending the King County zoning code relating to
2 adult use facilities to the council on October 12, 1995.

3 (7) The Law, Justice and Human Services Committee
4 of the council scheduled a hearing on the proposed ordinance
5 for October 17, 1995. However, the executive discovered
6 additional information which affected many of the eligible
7 sites available for adult use facilities under the proposed
8 ordinance, and which also affected eligible sites under other
9 options the executive had previously explored. As a result,
10 the proposed ordinance was not discussed in committee on
11 October 17, 1995.

12 D. Since the executive's proposed ordinance is no
13 longer a viable option, additional work must be performed
14 prior to the council adopting changes to its zoning
15 ordinance.

16 (1) The executive must re-examine the effects of
17 distance and setback scenarios to update the availability of
18 eligible sites in commercially and industrially zoned areas
19 of unincorporated King County.

20 (2) The executive must determine whether or not
21 eligible sites in industrially zoned areas of unincorporated
22 King County are commercially viable for adult entertainment
23 uses. Amendments to King County's comprehensive plan may
24 need to be developed and approved in order to allow adult use
25 establishments in industrially zoned areas of unincorporated
26 King County.

27 (3) Due to King County's unique geographic
28 circumstances, the coordinated siting and regulation of adult
29 entertainment establishments is a legitimate regional
30 objective under the Growth Management Act. Therefore, the

1 executive and council intend to explore countywide zoning for
2 adult entertainment establishments in King County. This
3 effort shall be coordinated with other municipalities in King
4 County and shall involve the Regional Policies Committee of
5 the King County Council. It may also involve working with
6 the Growth Management Planning Council to develop appropriate
7 countywide planning policies to address these issues.

8 (4) Once eligible sites are identified and
9 amendments to the zoning code are drafted, a proposed
10 ordinance must then proceed through the legislative process.
11 It is the council's intention to hold public hearings in the
12 communities where eligible sites are identified.

13 After a council committee has acted on the proposed
14 ordinance, it is forwarded to the full council for review and
15 action. Ten days notice must be given of the public hearing
16 on the proposed ordinance pursuant to RCW 36.32.120(7).
17 After council adoption of the ordinance, the clerk has five
18 days to present the ordinance to the executive for his
19 signature. The executive has ten days to sign, veto, or let
20 the ordinance take effect without his signature. The
21 ordinance becomes effective either ten days after the
22 executive's signature or ten days after the time elapsed for
23 his review if no action was taken by the executive.

24 E. The county performed substantial work necessary to
25 develop an ordinance that will replace regulations struck
26 down by the court in *Hon's Entertainment Inc. v. King County*.
27 There is not sufficient time, however, to complete this work,
28 nor time for the ordinance to proceed through the legislative
29 process prior to the expiration of the current moratorium.

1 SECTION 2. Moratorium Extension. The moratorium on the
 2 issuance of building permits, the acceptance of building
 3 permit applications, the issuance of business licenses, and
 4 the acceptance of business license applications established
 5 through Ordinance 11647 and continued by Ordinance 11825
 6 shall continue in full force and effect through January 3,
 7 1997 or until new land use regulations governing the location
 8 of adult use establishments take effect, whichever occurs
 9 sooner.

10 SECTION 3. Severability. If any provision of this
 11 ordinance or its application to any person or circumstance is
 12 held to be invalid by a court of competent jurisdiction, the
 13 remainder of the ordinance or the application of the
 14 provision to other persons or circumstances is not affected.

15 INTRODUCED AND READ for the first time this 4th
 16 day of December, 1995.

17 PASSED by a vote of 12 to 0 this 19th day of
 18 December, 1995.

19 KING COUNTY COUNCIL
 20 KING COUNTY, WASHINGTON

21 Kent Pullen
 22 Chair

23 ATTEST:

24 Gerald A. Peterson
 25 Clerk of the Council

26 APPROVED this 21st day of December, 1995.

27 Jerry Lohr
 28 King County Executive

29 Attachments: None