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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 3884

AN ORDINANCE relating to the zoning of adult entertainment land uses; amending sections 20.10.440, 20.50.010, 20.50.034, 20.50.044 and 20.50.046 of the Bellevue City Code (Land Use Code); and adding a new section 20.20 127 to chapter 20.20 of the Bellevue City Code (Land Use Code).

WHEREAS, under the decisional law of the courts of this state and the United States, the City of Bellevue is entitled to regulate the location of adult entertainment land uses in order to promote the significant interest of the City of Bellevue in protecting and preserving the quality of its neighborhoods and the quality of its urban life through effective land use planning; and

WHEREAS, the Bellevue City Council desires to regulate such uses for these express purposes; and

WHEREAS, based upon the Adult Entertainment Study and supporting materials filed under Clerk's Receiving No. ~~13246~~, and public comments and testimony presented to the Bellevue Planning Commission in the public meeting of September 16, 1987 and at the public hearing of December 2, 1987, the City Council finds the following to be true:

1. Many cities have experienced negative secondary impacts from adult entertainment land uses;
2. The City of Bellevue may rely on the experiences of other cities in assessing the need for regulation of adult entertainment land uses and the type of regulation selected;
3. The City of Bellevue Comprehensive Plan strongly supports that adjacent land uses be compatible;
4. Adult entertainment land uses are incompatible with certain sensitive land uses such as residences, religious facilities, parks, day care facilities, youth centers and schools;
5. Adjacency of residential uses to adult entertainment land uses reduces the value of residential property;

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6. Adult entertainment land uses are perceived to negatively impact the character of established neighborhoods;
7. Experience in other cities has shown that concentration of adult entertainment land uses degrades the quality of the areas of the city in which they are concentrated and causes a decline in property values;
8. Increased levels of criminal activities occur in the vicinity of adult entertainment land uses;
9. Adult entertainment land uses, which are commercial in nature, should be confined to those commercial zones in which similar "non-adult" land uses are permitted;
10. Utilizing 600 feet as the requisite spacing between each adult entertainment land use and other adult entertainment land uses and between adult entertainment land uses and residences, residential land use districts (R-1 - R-30), churches, parks, day care facilities, youth centers and schools (preschool - twelfth grade) will provide adequate separation while providing a reasonable amount of land within the City available for adult entertainment land uses; and

WHEREAS, the City Council finds that land use regulations providing for a modified dispersal/concentration approach to the regulation of adult entertainment land uses, is the least restrictive alternative means available to accomplish the substantial governmental interest in protecting and preserving the quality of the City's neighborhoods and urban life through effective land use planning, while still preserving adequate site opportunities for adult entertainment land uses and those who wish to patronize these land uses; and

WHEREAS, the City of Bellevue has complied with the State Environmental Policy Act and the City's Environmental Procedures Code; now therefore

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

Section 1. Bellevue City Code (Land Use Code) Section 20.20.440-Uses In Land Use Districts - Charts and Notes is amended as follows:

Chart 20.10.440
USES IN LAND USE DISTRICTS

WHOLESALE & RETAIL

STD LAND USE CODE REF	LAND USE CLASSIFICATION	LAND USE DISTRICTS																											
		G	A	OU	R-1	R-18	R-25	R-35	R-4	R-5	R-10	R-15	R-20	R-30	PO	O	OLB	LI	GC	NB	CB	CBD O-1	CBD O-2	CBD MU	CBD R	CBD OB	CBD OLB		
5	TRADE (WHOLESALE & RETAIL)																												
51	WHOLESALE TRADE GENERAL MERCHANDISE PRODUCTS, SUPPLIES MATERIALS & EQUIPMENT EXCEPT THE FOLLOWING 1																P	P											
5111 5156 5157 5191 5192	MOTOR VEHICLES, PRIMARY & STRUCTURAL METALS, BULK PETROLEUM 2																P ₃	C											
5193	SCRAP WASTE MATERIALS, LIVESTOCK																												
	RECYCLING CENTERS			C	C	C	C	C	C	C	C	C	C				P	P	P	P		P	P	P	C	C			
521 522 523 524	BULK RETAIL: LUMBER BUILDING MATERIALS, PAINT, GLASS, PLUMBING & ELECTRICAL SUPPLIES																P	P		P									
5251	HARDWARE (RETAIL)																P ₅	P ₆	P ₆	P		P	P	P	P ₂₄ P ₂₆	P ₃₃			
5252	FARM EQUIPMENT, MOBILE HOMES AND RECREATIONAL VEHICLES (RETAIL)																P												
53	GENERAL MERCHANDISE, DRY GOODS VARIETY & DEPT. STORES (RETAIL)																			P		P	P	P	P ₂₅ P ₂₆	P ₃₃			
54	FOOD (RETAIL)																	P	P ₇	P		P	P	P	P ₂₅ P ₂₆	P ₃₃			
5511	AUTOS (RETAIL)																	P		C		P	P	P					
	TRUCKS, MOTORCYCLES																P ₈	P				P	P	P					
	BOATS (RETAIL)			C ₉													P	P				P	P	P					
552	AUTOMOTIVE & MARINE ACCESSORIES (RETAIL)			C ₁₀													P ₁₁	P		C				P					
553	GASOLINE SERVICE STATIONS			C ₁₂													C	P	P	C	C		A ₂₉	A ₂₉	P		A ₂₉		
56	APPAREL & ACCESSORIES (RETAIL)																P ₁₃			P		P	P	P	P ₂₄	P ₃₃	P ₁₃		
57	FURNITURE & HOME FURNISHING (RETAIL)																	P ₁₄	P		P		P	P	P	P ₂₄	P ₃₃		
58	EATING AND DRINKING ESTABLISHMENTS			C ₁₅													P ₁₆	P ₁₇	P ₁₈ P ₃₂	P	C ₁₉	P		P ₃₀ P ₃₁	P ₃₀ P ₃₁	P ₃₁	P ₂₆ P ₃₀ P ₃₁	P ₃₀ P ₃₁	P ₁₇ P ₃₀ P ₃₁
59	OTHER RETAIL TRADE, DRUGS LIQUOR, ANTIQUES, BOOKS, SPORTING GOODS, JEWELRY, FLORIST & PHOTO SUPPLIES																P ₂₀	P ₂₁			P ₂₂	P		P	P	P	P ₂₄ P ₂₆	P ₃₃	P ₂₁
	ADULT RETAIL ESTABLISHMENTS 34																P ₂₁			P		P	P	P		P	P ₂₁		
5961	FARM SUPPLIES HAY, GRAIN FEED AND FENCING, ETC. (RETAIL)																	P	P										
598	RETAIL FUEL YARDS																	P	P										
5998	GARDEN SUPPLIES SMALL TREES, SHRUBS, FLOWERS & LIGHT SUPPLIES AND TOOLS			C														P	P		P ₂₃			P ₂₃					
5999	PET SHOP (RETAIL & GROOMING)																				P		P	P	P	P ₂₄ P ₂₆	P ₃₃		

Permitted uses in the Evergreen Highlands Design District (EH-A, EH-B, EH-C AND EH-D) are listed in Section 20.25F.010.

(Ordinance 3530, 8-12-85, Section , ,

Key

P - PERMITTED USE

C - CONDITIONAL USE (see Part 20.30B. or Part 20.30C.)

PD - PERMITTED subject to planned unit development only. (see Part 20.30D.)

A - ADMINISTRATIVE CONDITIONAL USE (see Part 20.30E.)

NOTES: USES IN LAND USE DISTRICTS—WHOLESALE AND RETAIL

1. Wholesale Trade includes sales offices for these goods.
 2. Motor Vehicles, Primary & Structural Metals, Bulk Petroleum includes sales offices for these goods and excludes tank farms.
 3. Motor Vehicles, Primary & Structural Metals, Bulk Petroleum excludes the retail sale of autos in LI districts.
 4. Bulk Retail includes sales offices for these goods.
 5. Hardware (Retail) is permitted only as a subordinate use to a permitted or special use in LI districts.
 6. Hardware (Retail) is limited to a maximum 10,000 square feet of gross floor area in NB districts.
 7. Food (Retail) is limited to a maximum 18,000 square feet of gross floor area in NB districts.
 8. Trucks, Motorcycles excludes motorcycles in LI districts.
 9. Boats (Retail) are permitted subject to Planned Unit Development and only as a subordinate use in waterfront areas of the OU district.
 10. Automotive & Marine Accessories (Retail) are permitted only as a subordinate use to a permitted or special use and only if it is marine-related in OU districts.
 11. Automotive and marine Accessories (Retail) is permitted only as a subordinate use to a permitted or special use in LI districts, except that tire sales is a permitted use in LI Districts.
 12. Gasoline Service Stations are permitted only as a subordinate use to a permitted or special use and only if it is marine-related in OU districts.
 13. Apparel & Accessories (Retail) are permitted only as a subordinate use to a permitted or special use in OLB districts.
 14. Furniture and Home Furnishings are limited to uses related to self-hauling of furniture with on-site warehousing in LI districts.
 15. Eating and Drinking establishments are permitted subject to a Planned Unit Development and only as subordinate uses in OU districts.
 16. Eating and Drinking establishments are excluded in Transition Areas in O districts.
 17. Eating and Drinking establishments are permitted in OLB and CBD-OLB districts subject to the following criteria:
 - a. Such uses are integrated within a structure primarily used as a hotel or motel, office building, charitable, social, professional and labor organization, fraternal lodge, recreational facility or institution such as a hospital or public assembly (indoor).
 - b. Such uses do not exceed 20% of the gross floor area of the structure or structures.
 - c. The entire site complex has a unity of design in terms of wall and roof materials, roof slopes and window patterns.
 18. Along those arterials designated by Section 20.20.020 as requiring a 70' setback from the centerline, Eating and Drinking establishments are permitted in LI districts only if located in a multiple use building.
 19. Eating and Drinking establishments may include liquor sales only if operated under a Class A or C liquor license issued by the Washington State Liquor Control Board, and only if such sales are approved as a part of the conditional use. Existing approved conditional uses may not engage in such liquor sales without first obtaining an amendment to such conditional use through the conditional use process.
 20. Other Retail Trade is limited to drugstores only in O districts.
 21. Other Retail Trade and Adult Retail is permitted only as a subordinate use to a permitted or special use in OLB and CBD-OLB districts.
 22. Other Retail Trade is limited to drugstores only in NB districts and said drugstores may contain a maximum of 8,000 square feet of gross floor area.
 23. Garden Supplies excludes items such as large trees, rock and bulk supplies which require special handling equipment in CB and CBD-MU districts.
 24. Limited to a maximum of 1,500 gross square feet per establishment.
 25. Limited to a maximum of 3,000 gross square feet per establishment.
 26. Nonresidential uses are permitted in CBD-R only when developed in a building which contains residential uses.
 27. Display and sales only; no onsite outdoor display or inventory storage.
 28. Motorcycles only.
 29. Permitted only as a subordinate use in CBD-O-1, CBD-O-2 and CBD-OLB districts.
 30. No fast food restaurants permitted.
 31. Drive-in windows are not permitted.
 32. No more than one eating and drinking establishment is permitted in any building.
- Ord. 2966, 1-18-82, Section 2)
33. Limited to a maximum of 15,000 gross square feet per establishment or up to 25,000 gross square feet through a conditional use. (Ord. 3813, 7-20-87, Section 1)
 34. Adult Retail Establishments are subject to the regulations for Adult Entertainment Uses in Section 20.20.127.

NOTES: USES IN LAND USE DISTRICTS—RECREATION

1. Cultural Activities include only branch libraries in R-2.5, R-3.5, R-4, R-5, R-10, R-15, R-20 and R-30 districts.
2. For Carnivals, see 20.20.160.
3. Recreation Activities do not include athletic clubs in O, LI and GC districts.
4. Limited to a maximum of 2,000 gross square feet per establishment.
5. Nonresidential uses are permitted in CBD-R only when developed in a building which contains residential uses.
6. Excludes zoos.
7. Adult Theaters are subject to the regulations for Adult Entertainment Uses in Section 20.20.127.

(Ord. 2945, 2-2-81, Section 5)

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Section 2. Bellevue City Code (Land Use Code) Chapter 20.20 - General Development Requirements is amended by the addition of a new section to read as follows:

20.20.127 Adult Entertainment Uses

A. Adult entertainment uses are prohibited within 600 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, day care center, community youth center, massage parlor, or other adult entertainment use.

B. Massage parlors are prohibited from locating within 600 feet of any existing adult entertainment use, and adult entertainment uses are prohibited from locating within 600 feet of any existing massage parlor.

C. The 600-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 or 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, day care center, or community youth center; or
3. A residential land use district (R-1 - R-30).

Section 3. Bellevue City Code (Land Use Code) Section 20.50.010 - Definitions is amended by the addition of the following definitions:

20.50.010 DEFINITIONS

ADULT ENTERTAINMENT USE. An Adult Retail Store or Adult Theater.

ADULT RETAIL ESTABLISHMENT. A retail establishment in which ten percent or more of the "stock in trade" (under either definition A. or B. under Section 20.50.046) consists of merchandise distinguished or characterized by a predominant emphasis on the

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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.

ADULT THEATER. An enclosed building or drive-in facility used for presenting, for commercial purposes, motion pictures, films, video cassettes, cable television, live entertainment or any other such material, performance or activity distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein. Buildings housing panorams, peep shows or topless or nude dancing are included in the definition above. The term "used" in the foregoing sentence describes a continuing course of conduct.

Section 4. Bellevue City Code (Land Use Code) Section 20.50.034 is amended by the addition of the following definitions:

MASSAGE. The method, art or science of treating the human body for hygienic, remedial or relaxational purposes by rubbing, stroking, kneading, tapping, rolling or manipulating the human body of another with the hands, or by any other agency or instrumentality.

Manipulation of the human body in the course of the practice of medicine, surgery, osteopathy, chiropractic, chiropody, naturopathy, dentistry, nursing, physical therapy, optometry or any other of the healing arts by persons licensed by the state to practice such healing arts is not included in the term "massage," as used herein.

MASSAGE PARLORS. Any place within the city where massages are given or furnished for, or in expectation of any fee, compensation or monetary consideration, EXCEPT:

- A. Facilities adjunct to athletic clubs, health clubs, medical facilities, hotels, motels or beauty salons; and
- B. Enterprises operating as approved Home Occupations.

Section 5. Bellevue City Code (Land Use Code) Section 20.50.044 - Additional Definitions is amended by addition of the following definition:

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20.50.044 ADDITIONAL DEFINITIONS

RELIGIOUS FACILITY. A facility operated for worship, prayer, meditation or similar activity by an organization granted tax exempt status by the Federal Internal Revenue Service

Section 6. Bellevue City Code (Land Use Code) Section 20.50.046 - Additional Definitions is amended by the addition of the following definitions:

20.50.046 ADDITIONAL DEFINITIONS

SPECIFIED ANATOMICAL AREAS

A. Less than completely and opaquely covered human genitals, pubic region, buttock or female breast below a point immediately above the top of the areola; or

B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES

A. Human genitals in a state of sexual stimulation or arousal;

B. Acts of human masturbation, sexual intercourse or sodomy; or

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

STOCK IN TRADE

A. The dollar value of all merchandise readily available for purchase, rental, viewing or use by patrons of the establishment, excluding merchandise located in any store room, under the counter or in any other portion of the premises not open to patrons; or

B. The total volume of shelf space and display area in those portions of the establishment open to patrons.

Section 7. This ordinance shall take effect and be in force five days after its passage and legal publication.

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PASSED by the City Council this 16th day of February
1988, and signed in authentication of its passage this 16th day
of February 1988.

(SEAL)

Nan Campbell
Nan Campbell, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

Richard L. Andrews
Richard L. Andrews, City Attorney

Attest:

Marie K. O'Connell
Marie K. O'Connell, City Clerk

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