

# ORIGINAL

## ORDINANCE NO. 166

### **AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, IMPOSING A MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR AND ISSUANCE OF LAND USE, BUILDING AND DEVELOPMENT PERMITS FOR ADULT RETAIL USES.**

WHEREAS, the Shoreline City Council has previously determined, based on public testimony and other evidence and through findings of fact detailed in Ordinance Nos. 138 and 139, that adult business and entertainment uses cause secondary effects that are detrimental to the public health, safety, morals and general welfare of the citizens of Shoreline; and

WHEREAS, there are present within the City of Shoreline several adult retail establishments whose stock in trade is devoted in whole or in substantial or significant part to books, magazines, cards, pictures, periodicals, prerecorded video tapes, disks, film or other such media, instruments, devices, equipment, paraphernalia, toys and novelties, games, clothing or other merchandise which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified anatomical areas, specified sexual activities, and sexual conduct; and

WHEREAS, there is evidence that the City could, in the near future, receive applications for adult retail uses that would significantly increase the amount of square feet of commercial space characterized by such uses and located within the City; and

WHEREAS, the City Code may not currently adequately address the various impacts to public health, safety, morals and general welfare that these uses present; and

WHEREAS, other cities in the surrounding Seattle-Tacoma metropolitan region, and elsewhere in the country, have adopted ordinances regulating adult entertainment and adult retail uses, based upon evidence of the negative secondary effects of such uses; and

WHEREAS, the citizens of Shoreline would be well served if City Council members and city staff more fully addressed and understood the potential negative secondary effects, in the form of health, safety and economic and aesthetic impacts, these uses impose upon neighboring properties and on the community as a whole; and

WHEREAS, the City needs to review existing information on the negative secondary effects of adult retail uses, and to review the City's Code and ordinances in a comprehensive fashion to determine whether they sufficiently address the secondary effects of such uses; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize cities to adopt moratoria provided a public hearing is held within sixty (60) days of adoption; and

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WHEREAS, the City should impose a moratorium barring the acceptance of all applications for and issuance of land use, or building and development permits under the City Code for adult retail uses, until additional review has been completed and any necessary code revisions have been adopted by the Shoreline City Council; and

WHEREAS, the Shoreline City Council understands that a portion or all of the materials sold by adult retail uses may be protected by the First Amendment of the U.S. Constitution and/or Article 1, Section 5 of the Washington State Constitution; and

WHEREAS, the Shoreline City Council does not intend, by this ordinance, to impermissibly infringe upon any party's free speech rights, and urges any court reviewing this ordinance to interpret it in such a manner and determine that it is constitutional; and

WHEREAS, the purpose of this ordinance is to provide, during the moratorium period, time in which the City Council may study its existing Code, ordinances and the negative secondary effects of such uses; determine whether any additional, reasonable regulation is necessary to mitigate the secondary effects; and prepare for adoption suitable time, place and manner restrictions narrowly tailored to regulate such uses by the least restrictive means available;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, DO ORDAIN AS FOLLOWS:**

**Section 1. Moratorium.** The Shoreline City Council hereby declares a moratorium upon the acceptance of applications for and the issuance of any land use, building and development permits or approval (including variances and rezones), or any other permit, license or approval required to construct, install, relocate, or operate any adult retail use as defined by City ordinance or described in the recitals of this ordinance. Further, during the pendency of this moratorium, no information or submissions on any pending applications for adult retail uses shall be accepted by City staff.

**Section 2. Duration.** This moratorium shall be in effect for 180 days following the effective date of this ordinance, and shall expire at midnight on December 22, 1998 unless extended by the City Council.

**Section 3. Public Hearing.** Pursuant to RCW 35A.63.220 and 36.70A.390, the City Council shall hold a public hearing on this moratorium within sixty (60) days of its adoption, or no later than August 22, 1998. 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 4. Staff Direction.** During the moratorium, the City staff is directed to survey existing studies and evidence in order to: identify any negative secondary effects that are associated with adult retail portions of adult entertainment and other adult business uses; determine whether any mechanisms exist by which these effects may be mitigated; identify the least restrictive of these mechanisms; identify alternative, available areas within the City within which the City may provide a reasonable means to accommodate access to constitutionally-protected material, if any;

make recommendations to the City Council concerning any necessary and appropriate legislation and/or code amendments.

**Section 5. Temporary Use Permits.** Notwithstanding the moratorium in Section 1 above, any adult entertainment or adult retail use which satisfies all criteria applicable to its underlying zone may be permitted under a temporary use permit if it meets the following criteria:

- A. It is not located or proposed to be located within four hundred feet (400') of:
  - 1. any residential zone;
  - 2. any public or private school or day care facility;
  - 3. any church which conducts religious or educational classes for minors;
  - 4. any public park;
  - 5. any public library; and
  - 6. any other adult use facility.
- B. It meets all other applicable criteria under the City Code.

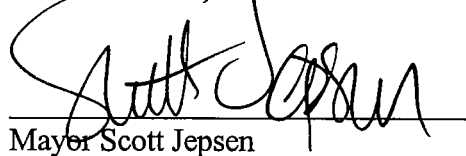
**Section 6. Recitals and Findings of Fact Incorporated.** The recitals set forth on pages one through three of this Ordinance, and the findings of fact contained in Ordinance Nos. 138 and 139, are incorporated as if fully set forth herein and shall serve as Findings of Fact. The City Council may amend such findings in whole or in part and adopt additional findings following the public hearing described in Section 3 above.

**Section 7. 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 8. Ratification.** Any act consistent with the authority and prior to the effective date of the ordinance is hereby ratified and affirmed.

**Section 9. Effective Date.** This ordinance shall be effective immediately upon passage by the Shoreline City Council.

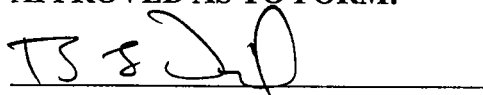
**PASSED BY THE CITY COUNCIL ON JUNE 22, 1998**

  
Mayer Scott Jepsen

**ATTEST:**

  
Sharon Mattioli, CMC  
City Clerk

**APPROVED AS TO FORM:**

  
Bruce L. Disend  
City Attorney

Date of Publication: June 26, 1998  
Effective Date: June 23, 1998