Ordinance No. 3035

(Amending or Repealing Ordinances)

CFN=175 – Business Licenses
Passed – 4/7/1992
Relating to business licenses

Amended by Ord. 3658 (now Sec. 5.01.180)
Amended by Ord. 3962 (Ch. 5.01)
Amended by Ord. 4001 (Ch. 5.01)
ORDINANCE NO. 3035

AN ORDINANCE of the City of Kent, Washington, relating to business licenses, amending the Business License Code by deleting the existing chapter and adding a new Chapter 5.02 in the Kent City Code (repealing Ordinances 174, 1919 and 2383); establishing a uniform system for the issuance, renewal, revocation and suspension of general business licenses and prescribing penalties for violations.

WHEREAS, the City of Kent may, under general law and pursuant to RCW 35A.82.020, license, revoke the same for cause, make inspections and otherwise regulate all kinds of businesses, occupations, trades, professions and any other lawful activity in the City; and

WHEREAS, the City's current General Business License Code, as contained in Kent City Code Chapter 5.02 is incomplete, outdated and does not describe an efficient manner of business license administration; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT HEREBY ORDAINS AS FOLLOWS:

Section 1. Ordinance 174, entitled:

AN ORDINANCE containing all general license provisions of the City of Kent; requiring compliance by persons required to obtain licenses; establishing a uniform system for the issuance of such licenses;
setting forth the authority of the City License Officer; prescribing penalties for the violation of its provisions; and repealing certain portions of previous ordinances.

and Ordinance 1919, entitled:

AN ORDINANCE of the City of Kent, Washington, providing for a procedure for the revocation of Kent Business Licenses.

and Ordinance 2383, entitled:

AN ORDINANCE of the City of Kent, Washington, relating to business licenses; amending Chapter 5.02 (Ordinance No. 1744 and 1919) of the Kent City Code, "General Business Licenses;" establishing license fees, and providing penalties for violation of the City Code; and repealing Ordinance No. 1344.

and all other ordinances or parts of ordinances in conflict herewith are repealed.

Section 2. The General Business License Code, Kent City Code (K.C.C.) Chapter 5.02 is hereby amended by deleting the entire chapter and adding the following:

Chapter 5.02
GENERAL BUSINESS LICENSES

5.02.020. Title. This ordinance shall constitute the "Business License Code" of the City of Kent, and may be cited as such.
5.02.040. Power to license for regulation and/or revenue. This ordinance is adopted by the City of Kent, exercising its power authorized under general law to license and revoke the same for cause, to regulate, make inspections and to impose excises for revenue or regulation in regard to all places and kinds of business, occupations, trades, professions and any other lawful activity (as such power is described in the Revised Code of Washington (RCW) 35A.82.020). The provisions of this ordinance shall be liberally construed for the accomplishment of such purposes.

5.02.060. Definitions. The words and phrases used in this ordinance, except where the same shall be clearly contrary to or inconsistent with the context of the ordinance or the section in which used, shall be construed as follows:

A. "Business" means all activities, occupations, trades, pursuits, professions and matters located within the City or within the City's jurisdiction, operated on a permanent and/or ongoing basis whether operated with the object of gain, benefit, advantage or profit, or operated not for profit, to the business enterprise or to another person, directly or indirectly. Business herein shall mean apartment and residential rental properties of three or more units. Business shall not mean government agencies. Such activities not requiring a business license may, however, be subject to temporary use regulations of the Kent Zoning Code. This ordinance shall not apply to any business or business enterprise that the City is forbidden by law to tax.

B. "Business Enterprise" means each location at which a person engages in business within the City.
C. "City" means the City of Kent, Washington.

D. "Director" means the Director of Planning of the City, or his/her designee.

E. "Department" means the Department of Planning of the City.

F. "Employee" means any person employed at any business enterprise who performs any part of his/her duties within the City, except casual laborers not employed in the usual course of business. All officers, agents, dealers, franchisees, etc., of a corporation or business trust, and partners of a partnership (except limited partners) are "employees" within this definition.

G. "Engage in Business" means to commence, conduct or continue in any business.

H. "Licensee means any business granted a business license.

I. "Person" means any individual, partnership, company, or a person acting in a fiduciary capacity.

5.02.080. Administration and Enforcement.

A. The Director of Planning, under the authority granted pursuant to the Revised Code of Washington (RCW) Chapter 35A and the Kent City Code, shall have general charge of, and supervision over, the administration and enforcement of this
ordinance, and shall exercise such power and perform all the duties imposed upon him/her by this ordinance through the Department.

B. The Director may call upon other City departments to aid in the enforcement of this ordinance, and it shall be the duty of all department heads to report any violations of this ordinance to the Director.

C. Applicant shall, upon reasonable request, provide or allow the Director to inspect relevant documentation of any licensee for verification of the information provided by applicant/licensee on the business license application; provided that the results of any such inspection shall be confidential unless a hearing is requested under the provisions of this ordinance in connection with the license.

D. The Director shall establish administrative rules and regulations consistent with this ordinance for the purpose of enforcing and carrying out its provisions.

5.02.100 General Business License Required. It is unlawful for any person to conduct, operate, engage in or practice any business in the City without having first obtained a general business license for the current calendar year or unexpired portion thereof, and paying the fees prescribed herein; provided that, persons under the age of eighteen (18) years shall not be required to have a business license.

5.02.120. Separate General Business License Required. A separate license shall be obtained for each branch, establishment or location at which the business related activity is carried on,
and each license shall authorize the licensee to carry on, pursue or conduct only that business, or business enterprise at that location. A separate license shall not be required for a facility determined by the Director to be an accessory facility to a branch, establishment or location for which a license is issued. When the place of business of a business enterprise is changed, the licensee shall return the license to the Department and a new license shall be issued for the new place of business free of charge, provided that the criteria for issuance, as set forth in Section 5.02.200 herein are met at the new location.

5.02.140. Licenses Not Transferable. No license issued under the provisions of this ordinance shall be transferable or assignable unless otherwise specifically provided for; except that a license may be transferred when a business changes its structure of ownership, provided, however, that a new business license shall be required upon a substantial change of ownership, whereby those primarily accountable for the business have changed or upon substantial change in the type of business operated, whereby the primary business being conducted has significantly changed.

5.02.160. License to be Posted. All licenses issued pursuant to this ordinance authorizing the operation or conducting of any occupation, business, trade or entertainment at a specified location shall be posted in a conspicuous place at such location. Such license shall be displayed by the licensee at the request of any interested person.
5.02.180. Disclaimer of City Liability.

Issuance of a license pursuant to this ordinance does not constitute the creation of a duty by the City to indemnify the licensee for any wrongful acts against the public, or to guarantee the quality of goods, services or expertise of a licensee, or to otherwise shift responsibility from the licensee to the City for proper training, conduct or equipment of the licensee or his/her agents, employees or representatives, even if specific regulations require standards of training, conduct or inspection.

5.02.200 General Qualifications of Licensees.

A. No license shall be issued, nor shall any license be renewed, pursuant to the provisions of this general license ordinance to:

1. An applicant who is not eighteen years of age at the time of application;

2. An applicant who has had a similar license revoked or suspended pursuant to Section 5.02.300 of this ordinance; or

3. An applicant who shall not first comply with the general laws of the State of Washington; or

4. An applicant who seeks such a license in order to practice some illegal act or some act injurious to the public health or safety.
B. Any person, including City officials, may submit complaints or objections to the Director regarding the application for any license, and the Director is additionally authorized to request and receive information from all City departments as will tend to aid him/her in determining whether to issue or deny the license. Such information shall be confidential unless a hearing is requested on the application, or if the applicant shall request the information in writing. All information, complaints or objections shall be investigated and considered by the Director prior to issuing, denying or renewing any license.

5.02.220. Application Procedure, License Fee.

A. The Director is authorized to prepare a schedule of fees for general business licenses hereafter issued, and when approved by the City Council by resolution, such schedule shall govern the amount of the license fee.

B. All businesses operated not for profit shall be exempt from paying a business license fee upon application and upon satisfactory proof to the Director of said not for profit status.

C. The business owner shall make application for any business license required under this ordinance to the Director on a form prepared by the Department, which application shall be accompanied by a receipt from the Department showing payment of the required fee. Business licenses shall be granted annually. If the application is made within six (6) months of the date fixed for expiration, the fee shall be one half the annual fee.
5.02.240. Approval of Business License. All licenses approved for issuance by the Director shall be conditioned upon compliance at all times with all applicable ordinances, regulations and statutes of the City and the State of Washington.

5.02.260. Renewal. The Director shall mail the forms for application of business license renewals to business enterprises in the City to the last address provided to the Director by licensee. Failure of the business enterprise to receive any such form shall not excuse the business enterprise from making application for and securing the required license or renewal, or for payment of the license fee when and as due hereunder.

5.02.280. Overpayment or Refund of License Fee. Whenever a business enterprise makes an overpayment, and within two (2) years after the date of such overpayment, makes an application for a refund or credit for the overpayment, the claim shall be considered by the Director, and if approved, shall be repaid from the general fund.

5.02.300. Denial, Revocation or Suspension of License -- Generally.

A. In addition to the other penalties provided by law, any business license issued under the provisions of this ordinance (or its predecessor) may be denied, revoked or suspended at any time, where the same was:

1. Procured by fraud, false representation or material omission of fact, or for the violation of, or failure to
comply with any of the provisions of this ordinance by the person holding such license, or any of his/her servants, agents or employees, while acting within the scope of their employment; or

2. If the licensee violates any applicable city, state or federal law, or if the purpose for which the license was issued is being abused to the detriment of the public, or if such license is being used for a purpose different from that for which it was issued. No license shall be revoked or suspended except in accordance with the procedures provided in this ordinance.

B. Upon revocation, said or similar business shall not be granted a license, upon any new application that may be made, for a period of sixty (60) calendar days from date of revocation. The period of suspension shall be fixed by the Director for up to and including ten (10) days for the first suspension and up to and including thirty (30) days for any subsequent suspension within twelve (12) calendar months of a prior suspension.

C. It is unlawful for any person whose license has been revoked or suspended to continue operation of the business enterprise, or to keep the license issued to him/her in his/her possession and control, and the same shall immediately be surrendered to the Director. When revoked, the license shall be canceled, and when suspended, the Director shall retain it during the period of suspension.

5.20.320. Denial of License -- Request for Hearing. Upon denial of a license, the Director shall, by certified mail, give written notice of such action to the applicant, which notice shall include a written report summarizing the complaints,
objections and information received and considered by the Director and further stating the basis for such action. Any applicant whose application is denied may, within ten (10) calendar days after notice of denial as provided in this ordinance, request a hearing in writing on such denial before the Hearing Examiner. Any license for which renewal has been denied shall remain in effect pending the determination made as a result of such Hearing Examiner hearing. If no request for hearing is received within the time specified, the Director's decision shall be final.

5.20.340. Suspension or Revocation Procedure.

A. Actions to suspend or revoke any license shall be commenced by filing with the Department a written complaint setting forth in specific terms the basis therefor. Upon receipt of such complaint, the Director shall review the allegations set forth in the complaint and perform a preliminary review of the facts as deemed appropriate under the circumstances to determine if the allegations in the complaint may constitute cause for suspension or revocation. If the Director determines that the allegations in the complaint may constitute cause for suspension or revocation, a copy of such complaint shall be mailed by certified mail to the licensee at his last address as shown by the license records of the Director, and shall be accompanied by a notice that the license may be suspended or revoked.

B. The licensee shall, within ten (10) working days after receiving any such complaint, mail by certified mail to the complainant and file with the Director his/her written answer which shall admit or deny the allegations of the complaint. The licensee
may provide other information with the answer licensee deems relevant for consideration by the Director.

C. Upon failure of any licensee to file an answer as provided in this section, or in the event that no hearing is requested, as set forth below, the Director shall investigate the allegations of the complaint, and if cause exists therefor may recommend suspension or revocation of the license, or otherwise he/she shall dismiss the complaint; provided that if the Director finds upon a sufficient showing that the conduct complained of has been corrected and is unlikely to be repeated, he/she may dismiss such complaint; and provided further, that the complaint shall be dismissed where the conduct complained of has been corrected.

D. Notice of the action of the Director summarizing his/her findings and conclusions and recommended action to be taken on the permit, if any, shall be mailed by certified mail to the complainant and to the licensee.

E. In all cases in which a complaint is dismissed, other than upon a written agreement between the complainant and licensee, or in which denial, suspension, revocation or related action as provided for herein is taken by the City, the aggrieved party may, within ten (10) working days of the mailing of the notice of the Director's action, request a hearing, in writing together with the appropriate Hearing Examiner filing fee, established by City Council resolution, both of which the Director shall transmit to the Hearing Examiner. The Director's recommended action to be taken shall constitute final action by the City should the aggrieved party fail to request a hearing as set forth herein.
F. The hearing before the Hearing Examiner shall be held according to the procedures set forth in Chapter 2.54.100(A) of the Kent City Code. The Hearing Examiner's decision on such business license shall represent the final action by the City, unless an appeal is made to the Superior Court of King County, within ten (10) working days after issuance of such decision.

G. When a hearing has been requested by a licensee in connection with the suspension or revocation of a license, the license shall remain in effect pending the determination made as a result of such hearing; provided that in cases involving a substantial threat to the public health, safety or welfare, the license may be summarily suspended and in such case the date for hearing shall be set within five (5) days following such suspension.

5.20.360. Penalties.

A. Monetary Penalties.

1. Penalty for operation of a business enterprise without a license shall be assessed by the Director in an amount not to exceed five hundred ($500.00) dollars. This penalty shall not apply to business enterprises failing to pay the license renewal fee as set forth in subsection (2) below.

2. Failure to pay the license fee within ninety (90) days after the date of expiration, pursuant to Section 5.02.220 shall subject the licensee to the monetary penalty in the amount of fifty dollars ($50.00) to reinstate the license, in addition to the required license fee.
B. Collection. Any license fee or tax due and unpaid and delinquent under this ordinance, and all penalties thereon may be collected by civil action, which remedy shall be in addition to any and all other existing remedies and penalties.

C. Criminal Penalties. Any business licensee who violates or fails to comply with any of the provisions of this ordinance or other lawful rule or ordinance adopted by the City pursuant thereto, shall upon conviction be punished as described in the general criminal penalty provisions of K.C.C. Section 1.10.020.

5.20.380. General Business License Application -- Public Record. General business license applications made to the Director pursuant to this ordinance shall be public information subject to inspection by all persons except to the extent those records may be deemed to be private or would result in unfair competitive disadvantage to such business enterprise if disclosed, all as more particularly described in Chapter 42.17 RCW.

Section 3. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons and circumstances.
Section 4. Effective date. This ordinance shall take effect and be in force thirty (30) days from and after its passage and approval.

DAN KELLEHER, MAYOR

ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

ROGER A. LUBOVICH, CITY ATTORNEY

PASSED the 7th day of April, 1992.
APPROVED the 8th day of April, 1992.
PUBLISHED the 10th day of April, 1992.

I hereby certify that this is a true and correct copy of Ordinance No. 3035, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENDA JACOBER, CITY CLERK