Ordinance No. 3138

["Beginning July 1, 1998"]

(Amending or Repealing Ordinances)

Amended by Ord. 3471
Readopting, re-enacting, ratifying & confirming rates & fees by Ord. 3534
ORDINANCE NO. 3138

AN ORDINANCE of the City Council of the City of Kent, Washington, repealing Chapter 8.02 of the Kent City Code, entitled "Political Signs, Banners, Etc.", Chapter 6.08, entitled "Street Occupation Permits", and Section 9.36.040, entitled "Street Closure"; and amending Chapter 6.07 entitled, "Street Use Permits", as this chapter relates to use of public property and rights-of-way.

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

**Section 1.** Chapter 8.02 of the Kent City Code, entitled "Political Signs, Banners, Etc.", is hereby repealed in its entirety.

**Section 2.** Chapter 6.08 of the Kent City Code, entitled "Street Occupation Permits", is hereby repealed in its entirety.

**Section 3.** Resolution 1303, adopting a schedule of fees for permits relating to Chapter 6.08, "Street Occupation Permits", is hereby repealed in its entirety.
Section 4. Section 9.36.040 of the Kent City Code, entitled "Street Closure", is hereby repealed in its entirety.

Section 5. Chapter 6.07 of the Kent City Code, entitled "Street use permits", is hereby amended to read as follows:

CHAPTER 6.07. STREET USE PERMITS

Sec. 6.07.010. Purpose.

The purpose of this chapter is to establish minimum rules and regulations relating to street use associated with property development and to other uses of streets, sidewalks, public property, public rights-of-way and other public places for private purposes and to provide for enforcement.

Sec. 6.07.020. Definitions.

The following words and phrases, wherever used in this chapter shall have the meanings ascribed to them in this section except where otherwise defined and unless the context shall clearly indicate to the contrary:

"Banner" means any pliable canvas or cloth sign material or holiday or festival decor such as garland or similar decor stretched over or across any public place.

"Director" means the director of public works of the city and/or his or her designee.

"Portable sign" means a sign which is not permanently affixed to the ground or to a building or structure and which may be easily moved.

"Public place" means and includes streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, planting (parking) strips, squares, triangles and other rights-of-way open
to the use of the public, and the space above or beneath the surface of same. This definition specifically does not include streets, alleys, ways, planting strips and sidewalks which have not been deeded, dedicated or otherwise permanently appropriated to the public for public use.

"Use" means and includes, but is not limited to, the following types of uses: to construct, store, erect, place, maintain, or operate in, upon, over or under any public place, any sidewalk cafe, food cart, or restaurant, staging, scaffold, structure or material, machinery or tools used or to be used in connection with the erection, alteration, repair or painting of any building; or to move any building across or along any public place; or to use or occupy any public place for the storage or placement of any material, equipment or thing; or to allow any vehicle to be upon that portion of roadway designated as parking or curb space for purposes of selling or soliciting in addition to merely parking; or to open, excavate, or in any manner disturb or break the surface or foundation of any permanent pavement of a public place, or to alter the established grade of any street, or to disturb the surface of, dig up, cut, excavate or fill in any public place; or to construct, reconstruct, maintain or remove any sidewalk or crosswalk, pavement, sewers, water mains, grading, street lighting, or appurtenances thereto, except when permitted by ordinance, or to do any work in, or erect any structure under, along or over any public place and other such uses.

Sec. 6.07.((029)) 030. ((Permit required.)) Uses and Permits.

A. Uses Related to Construction and Property Development.
No person shall be issued a project, building, grading or fill permit without first obtaining a separate street use permit from the department of public works except as follows:

1. An applicant for a permit to make an addition, alteration or repairs to a single-family residence;
2. An applicant for a permit to make an alteration, repair or minor addition (less than twenty thousand dollars ($20,000.00) in value) to any structure other than a single-family residence.
3. The director determines, in his or her discretion, that the issuance of a separate street use permit for each project, building, grading or fill permit is not necessary to regulate the use on the public place.

B. Signs.
1. No person shall place a sign on any public place except as follows:
   a. Portable Signs. Portable signs as defined herein may be placed on a public place without a permit upon the following conditions:
      i. No portable sign placed on public property may reduce the unobstructed width of a sidewalk or walkway to less than four (4) feet, or otherwise impede the progress of pedestrians, bike riders or handicapped individuals. In addition, no sign or banner shall be installed within four (4) feet of the face of curb or the edge of a traveled street, driveway, highway, or alley.
      ii. No portable signs shall be installed or placed upon power poles, telephone poles, street light standards, sign posts, trees, traffic controllers, markers; on
any railing, bridge, overpass, street, crosswalk, public building or lawn or open area surrounding any public building.

iii. No portable sign shall be installed in, or within twenty (20) feet of a driveway, wheelchair ramp, or intersection or placed or situated on a public place in such a way as to constitute a threat to the health, safety and welfare of the public or interfere with the use of the public place.

iv. Portable signs shall be installed so that the top of the sign does not exceed an elevation of 36 inches higher than the height of the sidewalk, bike path or walkway. Where these improvements do not exist the 36 inch height limitation shall be measured from the highest edge of the street, alley or driveway.

v. Portable signs shall be constructed of weather-resistant wood, metal or plastic. Canvas, cardboard and paper signs are prohibited.

vi. Attachment of paper, plastic, balloons, or cardboard to a sign structure is not permitted if such attachment extends the approved height or width of the sign.

vii. Portable signs shall not be weighted down, or otherwise attached to public property in such a way as to resist impact by a traveling vehicle, bicycle or pedestrian.

b. Political campaign signs. Political campaign signs may be placed on a public place without a permit except, however, no sign shall be placed or situated on a public place in such a way as to constitute a threat to the health, safety and welfare of the public or interfere with the use of the public place. Owners of political campaign signs shall be responsible for their removal after their use.
c. Banners. Banners may be placed on a public place only by permit pursuant to the provisions of this chapter.

d. Other. All other signs are prohibited on public places for private purposes and on any equipment, facilities and structures located upon public places, including, but not limited to, power poles, telephone poles, street light standards, sign posts, trees, traffic controllers, markers, railings, bridges, overpasses, and public buildings.

2. Violations. In addition or as an alternative to the remedies provided in this chapter, the director may remove or relocate signs which are placed on a public place in violation of the provisions of this subsection, 6.07.030(B), or which the director determines, in his or her discretion, constitutes a threat to the health, safety and welfare of the public or interferes with the use of the public place.

C. Other Uses of Public Property.

It shall be unlawful for anyone to use any public place for private purposes, without having first obtained a street use permit from the director, and without complying with all the provisions of this chapter in relation thereto.

D. Street Closures.

1. The City may permit the closure of a portion of a street or road within the boundaries of the City. No closure of any street or road of any duration in time or length shall occur except in accordance with a permit issued by the director, and such other laws or regulations which may be applicable.
2. The director may issue a permit for closure of such street or road if such closure is consistent with the general health, safety and welfare of the citizens. The director is authorized to require that issuance of the permit is dependent upon fulfillment of such conditions as are necessary to ensure the closure is carried out in a safe, uniform, and reasonable manner, including but not limited to:

   a. The execution of a written agreement regulating access to the street by emergency vehicles and local residents during the closure.

   b. Procurement and posting of a bond, cash and/or proof of insurance in an amount sufficient to ensure payment for damages and/or all cleanup costs associated with the closure, and a hold harmless agreement, as set forth in subsection .060 below.

   c. Use of City-approved signs and barricades for the closure.

D. City Development or Use - Exemptions.

The requirements of this chapter shall not apply to:

1. Street, drainage, water or sewer maintenance work performed by the City, including street, drainage, water or sewer installation and improvement work authorized by ordinance, or street, drainage, water or sewer improvement projects under contract with the City shall be exempt from the provisions of this chapter.

2. The City initiated closure of any highway, street or road.
Sec. 6.07.040. Permit application.

To obtain a permit, the person shall file an application on a form furnished by the city for that purpose. Every application shall, where applicable:

1. Identify the property by legal description and address for which a building, grading or fill permit is being sought or an accurate description of the public place or portion thereof desired to be used.

2. Provide the use desired to be made of such public place by the applicant.

3. Provide the plans and specifications for any utility or structure desired to be constructed, erected or maintained by the applicant in or on a public place

4. Identify routes to be utilized to and from the property.

5. Identify the owner of the property being developed.

6. Identify the contractor and subcontractor responsible for the development work.

7. Include the state contractor's number of such contractor or subcontractor.

8. Include the city business license number of such contractor or subcontractor.

9. Be signed by the owner or the agent of the firm who will be actually responsible for the development work.

((Sec. 6.07.040. Preinspection.

Prior to issuance of any street-use permit, the location shall be inspected by a department of public works inspection official.))
((Sec. 6.07.050. Cash deposit.)

If the director of public works or designate determines that there is a probability of injury, damage or expense to the city arising from an applicant's proposed use of any public street, the applicant shall make a cash indemnity deposit with the city. The amount of the cash deposit shall be determined by the director of public works or designate at the time of approving the application and shall be governed by the anticipated amount and extent of injury, damage or expense to the city as determined by the director of public works or designate. Such indemnity fund shall be used to pay the cost of inspections, surveys, plans and other services performed by the city for restoring the street and removing any earth or other debris from the street, the replacement of any utility interrupted or damaged or the completion of any work left unfinished and any other expense the city may sustain in conjunction with the permitted work. The balance of the cash indemnity fund, if any, after the foregoing deductions shall be returned to the applicant. If the indemnity deposit is insufficient, the applicant will be liable for the deficiency.))

Sec. 6.07.050. Processing of applications.

A. The director shall examine each application submitted to determine if it complies with the provisions of this chapter. In order to ascertain any facts which may aid in determining whether a permit shall be granted, the director may inspect the premises which are desired to be used under the permit.

B. If the director finds that the application presented to him or her for approval conforms to the requirements
of this chapter, and also that the proposed use of such public place will not unduly interfere with the rights of the public or unduly interfere or compete with adjacent uses on public or private property or otherwise constitute a threat to the health, safety and welfare of the public, then he or she may approve such application.

Sec. 6.07.060. Indemnity deposit; surety bond; liability insurance.

A. If the director determines that there is a probability of injury, damage or expense to the city arising from an applicant's proposed use of any public place, the applicant shall provide a cash indemnity deposit to the department of public works. The amount of the cash indemnity deposit shall be determined by the director, governed by the anticipated amount and extent of injury, damage or expense to the city, and determined at the time of application approval. Such indemnity deposit shall be used to pay the cost of plan review, inspections, surveys, and other administrative services performed by the city, of restoring the street and removing any earth or other debris from the street, the replacement of any utility interrupted or damaged, or the completion of any work left unfinished, the cost of filing of an indemnity agreement with the department, if such an agreement is required with the permit, and any other expense the city may sustain in conjunction with the permitted work. The balance of the cash indemnity deposit, if any, after the foregoing deductions, shall be returned to the applicant. If the indemnity deposit is insufficient, the applicant will be liable for the deficiency. If the director determines that engineering studies must be made prior to the approval of any application for permit, the cost of such study
shall be paid for by the applicant, or deducted from his indemnity deposit.

B. The director may require, in lieu of or in addition to the cash indemnity deposit, the applicant to file with the department a surety bond which has been approved as to surety and as to form by the city attorney. The surety bond shall meet all the requirements provided in subsection A. above relative to a cash indemnity deposit, shall run for the full period of the permit and shall be in an amount to be fixed by the director and conditioned such that the applicant shall faithfully comply with all the terms of the permit, all the provisions of this chapter, all other ordinances of the city.

C. If the application is for the construction, reconstruction, repair, maintenance or removal of any sidewalk, pavement, sewers, water mains, grading, street lighting or appurtenances thereto, the applicant shall file with the department a surety bond approved as to surety and as to form by the city attorney. The surety bond shall run for the full period of the permit and may be required by the director for a period of one (1) year after the acceptance of the permitted work by the city, and shall be in an amount fixed by the director. The surety shall be conditioned such that the applicant shall faithfully complete all portions of the work according to the standard plans and specifications of the city, and the specific plans for the work as approved by the city engineer.

D. The director may require any permit holder to post a surety bond in the calendar year following the period of a
permit when the extent of possible damage to a public place cannot be completely determined.

E. The director may require an applicant to maintain in full force and effect public liability insurance in an amount sufficient to cover potential claims for bodily injury, death or disability and for property damage which may arise from or in connection with the permit. The director shall establish the amount of such insurance, and a copy of the policy shall be provided to the City for review prior to issuance of the permit.

The director has the discretion to require one or any combination of the above requirements prior to issuance of a permit as the director deems appropriate, considering the use proposed by the applicant, in order to reasonably protect the City's interests and the health, safety and welfare of the public.

Sec. 6.07.070. Indemnity Agreement.

The applicant shall be required to execute a written agreement supplied by the city attorney to forever hold and save the city free and harmless from any and all claims, actions or damages of every kind and description which may accrue to or be suffered by any person by reason of the use of such public place or of the construction, existence, maintenance use or occupation of any such structure, services, fixtures, equipment and/or facilities on or in a public place pursuant to this chapter.

Sec. 6.07.(069) 080. Permit expiration.

Every permit issued by the department of public works under provisions of this chapter shall expire in accordance with
the expiration date of the respective building, grading, or fill permit. In no such case shall the life of the street use permit extend beyond ((six (6))) twelve (12) months from date of issuance.

Sec. 6.07.((090)) 090. Special conditions, suspension or revocation for noncompliance.

A. The applicant shall continuously keep the streets and storm drain system free from all debris attributed to the work performed under the respective building, grading, or fill permit. If this is violated, the director of public works or designate may without advance notice and by posting the work site suspend or revoke a permit issued. No new permit will be issued or the suspension lifted until the conditions of this section have been met. Where the director of public works or designate determines that no immediate action per compliance with the conditions of this section is about to occur, and the director of public works or designate determines in his judgment that it is in the best interest of the city that immediate action should be taken, he can order the work done by city forces or other forces. The cost thereof shall be deducted from the indemnity fund at the actual cost plus fifteen (15) percent.

B. The director of public works or designate may in writing suspend or revoke a permit issued hereunder whenever the permit was issued in error or on the basis of incorrect information supplied or in violation of any other ordinance or regulation of the city.
Sec. 6.07.((080)) 100. Permit and inspection fees.

A. The basic fee for a street use permit under Section 6.07.030(A) above shall be fifty dollars ($50.00). (A separate permit is required for each respective building, grading, or fill permit independently if several building, grading, or fill permits are issued on one (1) legally defined parcel of property.) The basic fee for a street use permit under Section 6.07.030(B), (C) and (D) above shall be twenty-five dollars ($25.00).

B. Where total inspection time exceeds two (2) hours an extra charge shall be invoiced to the applicant at a rate of twenty dollars ($20.00) per hour.

((Sec. 6.07.090. Permit renewal.

Permits which have expired may be renewed for ninety (90) additional days for one-half the original permit fee. The renewal permit must be applied for prior to the expiration date of the original permit.))

Sec. 6.07.((100)) 110. Double fee for work without permit.

Whenever work for which a permit is required by this chapter is commenced or performed prior to obtaining such permit, the basic permit fee shall be doubled. The payment for such double fee shall not relieve any person from full compliance with all of the requirements of this chapter in the execution of the work or from any other penalties which may be provided for in this chapter, including criminal penalties.
Sec. 6.07.(140) 120. Permit not obtained.

Any work which is commenced or performed prior to obtaining the permit required by this chapter shall be immediately suspended and shall not recommence until the requirements of this chapter have been fully satisfied.

Sec. 6.07.(140) 130. Enforcement authority.

The city engineer or construction engineer are authorized and directed to act as the delegate of the director of public works and to enforce all provisions of this chapter.

Sec. 6.07.140. Stop Work Order.

The director may issue a stop work order whenever a continuing violation of this chapter will materially impair the director's ability to secure compliance, or when a continuing violation threatens the health or safety of the public.

((Sec. 6.07.130. Violation; penalties.

It shall be unlawful for any person to use a city street in association with a building, grading, or fill permit, or cause the same to be done, in violation of any of the provisions of this chapter. Any person violating any of the provisions of this chapter shall, upon conviction be deemed guilty of a misdemeanor. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted.))

Sec. 6.07.150. Violation; penalties.

A. Civil. Any violation of any provision of this chapter constitutes a civil violation under Kent City Code...
Chapter 1.04 for which a monetary penalty may be assessed and abatement may be required and/or otherwise enforced as provided therein.

B. Criminal. In addition or as an alternative to any other penalty provided in this chapter or by law, any person violating the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable in accordance with the provisions of section 1.01.140 relating to criminal penalties for misdemeanors.

Section 6. Severability. If any one or more sections, subsections or sentences of this chapter are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this chapter and the same shall remain in full force and effect.

Section 7. Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage, approval and publication as provided by law.

ATTEST:

BRENDA JACOBER, CITY CLERK
APPROVED AS TO FORM:

ROGER A. LUBOVICH, CITY ATTORNEY

PASSED the 19 day of October, 1993.
APPROVED the 20 day of October, 1993.
PUBLISHED the 22 day of October, 1993.

I hereby certify that this is a true copy of
Ordinance No. 3138, 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