Ordinance No. 3214

["Beginning July 1, 1998"]

(Amending or Repealing Ordinances)

Secs. 5.10.030, 5.10.120, 5.10.140 & 5.10.200 (C)
Amended by Ord. 3475
ORDINANCE NO. 3214

AN ORDINANCE of the City Council of the City of Kent, Washington, relating to the regulation of adult entertainment businesses as defined herein, providing for the licensing of such businesses, further providing standards of conduct and operation, including the regulation of certain physical features of exotic dance studios, repealing Ordinance No. 2778, and establishing misdemeanor offenses and penalties for the violation of such regulations.

WHEREAS, cities have the right to enact laws for the protection of the public health, safety and general welfare; and

WHEREAS, various Washington State municipalities have found it is necessary for the public health, safety, and welfare to regulate businesses, managers, and employees that provide adult entertainment as well as the patrons of adult entertainment businesses; and

WHEREAS, the City conducted a study of the impacts of adult entertainment places and adult uses in its city in a report entitled "City of Kent - Adult Use Zoning Study" issued by the Kent Planning Department in November, 1982, which is incorporated herein by this reference; and

WHEREAS, thereafter, in order to protect and preserve the health, safety, and welfare of the City, the Kent City Council established land use and licensing regulations for adult entertainment businesses; and

WHEREAS, by its adoption of Ordinance No. 3185, the City Council imposed a moratorium on adult entertainment businesses within the City of Kent so that land use regulations governing the location of such establishments could be formulated to comply with the ruling of the U.S. District Court for the Western District of Washington in Cause No. C94-256Z on the City's land use regulations for such businesses; and
WHEREAS, the City Council has determined that adult entertainment, including nude and semi-nude dancing, in public establishments is frequently linked to patron, employee, and owner participation in criminal activity including controlled substance violations, liquor law violations, prostitution, and, generally, increased criminal activity; and

WHEREAS, the City takes notice of the experiences of other cities and counties in combating the specific adverse impacts of businesses providing adult entertainment including nude and semi-nude dancing; and

WHEREAS, adult entertainment businesses require special supervision in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the communities where they locate and that it is appropriate, at this time, to review licensing regulations of adult entertainment businesses; and

WHEREAS, a hearing has been held by the City Council to hear public testimony concerning the adverse secondary impacts of businesses providing adult entertainment; NOW, THEREFORE,

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

SECTION 1. There is hereby created a new section of the Kent City Code, Section 5.10, entitled "Adult Entertainment", as follows:

CHAPTER 5.10. ADULT ENTERTAINMENT

Sec. 5.10.010. Findings of fact.
Based on public testimony and other evidence and information before it, the city council makes the following findings of fact:

1. The activities defined and regulated in this chapter are detrimental to the public health, safety and general welfare of the citizens of the city and, therefore, such activities must be regulated as provided in this chapter.

2. Regulation of the adult entertainment industry is necessary because, in the absence of such regulation, significant criminal activity has historically and regularly occurred. This history of criminal activity in the adult entertainment industry has included prostitution, narcotics and liquor law violations, breaches of the peace and the presence within the industry of individuals with hidden ownership interests and outstanding arrest warrants.

3. Contact between entertainers and patrons of adult entertainment businesses facilitates prostitution and other related crimes and the concern over unlawful sexual activities...
and related crimes is a legitimate health concern of the City which demands reasonable regulation of adult entertainment businesses in order to protect the health and well-being of the citizens; and

4. Licensing is a legitimate and reasonable means of accountability to ensure that operators of adult entertainment businesses comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and

5. In the absence of regulation, the activities described in this section occur regardless of whether the adult entertainment is presented in conjunction with the sale of alcoholic beverages.

6. It is necessary to license entertainers in the adult entertainment industry to prevent the exploitation of minors, to ensure that each such entertainer is an adult, to ensure that such entertainers have not assumed a false name which would make regulation of the entertainer difficult or impossible and to ensure that such entertainers are not involved in criminal activity.

7. It is necessary to have a licensed manager on the premises of establishments offering adult entertainment at such times as such establishments are offering adult entertainment so that there will, at all necessary times, be an individual responsible for the overall operation of the establishment, including the actions of patrons, entertainers and other employees.

8. The license fees required in this chapter are nominal fees imposed as necessary regulatory measures designed to help defray the substantial expenses incurred by the city in regulating the adult entertainment industry.

9. Hidden ownership interests for the purposes of skimming profits and avoiding the payment of taxes have historically occurred in the adult entertainment industry in the absence of regulation. These hidden ownership interests have historically been held by organized and white collar crime elements. In order for the city to effectively protect the public health, safety and general welfare of its citizenry, it is important that the city be fully apprised of the actual ownership of adult entertainment establishments.

10. The City Council desires to prevent these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life, preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight; and

11. It is not the intent of this chapter to suppress any speech activities protected by the First Amendment or Article I, Section 5 of the Washington State Constitution, but to enact content neutral regulations which address the secondary effects of adult entertainment businesses, as well as the health problems associated with such businesses.
Sec. 5.10.020. Purpose and intent.

It is the purpose of this chapter to regulate adult entertainment businesses and related activities to promote health, safety, morals, and general welfare of the citizens of the City of Kent, and to establish reasonable and uniform regulations to prevent the establishment of adult entertainment businesses in locations within the City which would have a harmful effect on the residents of the City. The purpose of this chapter is to alleviate undesirable social problems that accompany adult entertainment businesses, and to enact content neutral regulations which address the secondary effects of adult entertainment businesses as well as health problems associated with such business, not to curtail the First Amendment expression, namely dancing or entertainment. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the State or Federal Constitutions, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimate the distribution of obscene materials.

Sec. 5.10.030. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. **ADULT ENTERTAINMENT**: "Adult Entertainment" means any dance, amusement, show, display, exhibition, pantomime, modeling or any other like performance of any type where such is characterized by the performer's "nudity", as defined herein, or the exhibition of "specified sexual activities", also defined herein, which emphasizes and seeks to arouse or excite the patron's sexual desires for the use or benefit of a member or members of the public or advertised for the use or benefit of a member of the public.

2. **ADULT ENTERTAINMENT BUSINESS**: "Adult Entertainment Business" shall mean an Adult Arcade, Adult Bookstore, Adult Novelty Store, Adult Video Store, Adult Motion Picture Theater, and Exotic Dance Studio, more specifically defined as follows:

   A. **Adult Arcade**: "Adult Arcade" shall mean an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, computer generated or enhanced pornography, pantomam, peep show, or similar machines, or other image producing machines, for personal viewing, are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "nudity" or "specified sexual activities".

   B. **Adult Bookstore, Adult Novelty Store, or Adult Video Store**: "Adult Bookstore", "Adult Novelty Store", or "Adult Video Store" shall mean a commercial
establishment which has as a significant or substantial portion of its stock-in-trade or revenues, substantial meaning twenty (20) percent or more, for any form of consideration, books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other photographic reproductions or visual representations which are characterized by the depiction or description of "nudity" or "specified sexual activities".

1. An establishment may have other principal business purposes that do not involve the offering for sale or rental of materials depicting or describing "nudity" or "specified sexual activities", and still be categorized as Adult Bookstore, Adult Novelty Store, or Adult Video Store. Such other business purposes will not serve to exempt such establishments from being categorized as an Adult Bookstore, Adult Novelty Store, or Adult Video Store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe "nudity" or "specified sexual activities."

2. Video stores that sell and/or rent only video tapes or other photographic reproductions and associated equipment shall come within this definition. It shall be a rebuttable presumption that twenty (20) percent of a business' stock-in-trade or revenues is considered substantial.

C. Adult Motion Picture Theater: "Adult Motion Picture Theater" shall mean a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions characterized by the depiction or description of "nudity" or "specified sexual activities" are regularly shown for any form of consideration.

D. Exotic Dance Studio: "Exotic Dance Studio", also known as "topless bar" and "adult cabaret", shall mean a nightclub, bar, restaurant, or similar commercial establishment to which any member of the public is invited or admitted and where an entertainer provides live adult entertainment performances to any member of the public.

3. CITY: "City" means the City of Kent, Washington.

4. CLERK: "Clerk" shall mean such city employees or agents as the mayor shall designate to administer this chapter, or any designee thereof.

5. CONVICTION: "Conviction" means an adjudication of conviction of guilt and occurs at such time as a plea of guilty has been accepted or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including but not limited to sentencing or disposition, post-trial or post-fact finding motions, and appeals. Conviction also means a bail forfeiture.

6. EMPLOYEE: "Employee" means any and all persons, including managers, entertainers, and independent contractors who work in or at or render any services directly related to the operation of any adult entertainment business offering adult entertainment, whether or not such person is paid compensation by the operator of said business.
7. **ENTERTAINER**: "Entertainer" means any person who provides live adult entertainment in an adult entertainment business whether or not an employee of the operator and whether or not a fee is charged or accepted for such entertainment.

8. **ESTABLISH**: "Establish" shall mean and include any of the following:
   
   A. To open or commence any adult entertainment business as a new business; or
   
   B. To convert an existing business, whether or not an adult entertainment business, to any adult entertainment businesses defined herein.
   
   C. To add any of the adult entertainment businesses defined herein to any other existing adult entertainment business; or
   
   D. To relocate any such adult entertainment business.

9. **LICENSE**: "License" shall mean a license to operate, manage or entertain at any premises that is classified as an adult entertainment business.

10. **LICENSED PREMISES**: "Licensed Premises" shall mean any premises that requires a license and that is classified as an adult entertainment business.

11. **LICENSEE**: "Licensee" shall mean a person in whose name a license to operate, manage or entertain at an adult entertainment business has been issued, as well as the individual listed as an applicant on the application for a license.

12. **MANAGER**: "Manager" means any person appointed by an owner or operator of an adult entertainment business who manages, directs, administers or is in charge of the affairs and/or the conduct or operation of an adult entertainment business and includes assistant managers.

13. **MATERIALLY FALSE REPRESENTATION**: "Materially false representation" means any false representation or statement, oral or written, regardless of its admissibility under the rules of evidence, which could have affected the course or outcome of the license application process.

14. **NUDE**: "Nude" shall mean:
   
   A. Less than completely and opaquely covered or in such attire, costume or clothing as to expose to view male genitals, female genitals, pubic region, buttocks, anus, or any portion of the female breast below a point immediately above the top of areolae; or
   
   B. Wearing any device or covering exposed to view which simulates the appearance of male genitals, female genitals, pubic region, buttocks, anus, or any portion of the female breast below a point immediately above the top of areolae.

15. **OPERATOR**: "Operator" shall mean and include the owner, permit holder, custodian, manager, operator, or person in charge of, conducting or maintaining an adult entertainment business.

16. **PANORAM or PEEP SHOW**: "Panoram" or "peep show" means any device which, upon insertion of a coin or by any other means, exhibits or displays a picture or view by film, video, or by any other means.
17. **PERSON**: "Person" shall mean any individual, firm, joint venture, copartnership, association, social club, fraternal organization, corporation, estate, trust, business trust, receive or any other group or combination acting as a unit.

18. **SPECIFIED SEXUAL ACTIVITIES**: "Specified Sexual Activities" shall mean and include any of the following:
   A. The caressing, touching, fondling or other intentional or erotic touching of male genitals, female genitals, pubic region, buttocks, anus, or female breasts; or
   B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, flagellation, sodomy, bestiality, or any sexual acts which are prohibited by law; or
   C. Masturbation, actual or simulated; or
   D. Human genitals in a state of sexual stimulation, arousal or tumescence or visual state of sexual stimulation, arousal or tumescence, even if completely and opaquely covered; or
   E. Excretory functions as part of or in connection with any of the activities set forth in subdivisions A through D of this subsection.

**Sec. 5.10.040. Administration of licensing.**

The clerk is responsible for granting, denying, revoking, renewing, suspending, and cancelling adult entertainment business licenses. The Planning Director and the Building Official or their designee are responsible for ascertaining whether a proposed adult entertainment business for which a license is being applied for complies with all building code and land use requirements enumerated herein and all other applicable building code and zoning laws and/or regulations now in effect or as amended or enacted subsequent to the effective date of this chapter.

**Sec. 5.10.050. License required; fee.**

A. **Adult entertainment business license required.**
   1. No person or entity shall use any property or premises for an adult entertainment business within the City of Kent except within those areas authorized for location of said businesses as set forth in Kent City Code 15.08.270, and no adult entertainment business shall be established, operated or maintained in the city unless the owner or operator thereof has obtained an adult entertainment business license from the clerk. It is unlawful for any entertainer, employee or operator to knowingly work in or about or to knowingly perform any service directly related to the operation of an unlicensed public adult entertainment business. **Violation/penalty.** Any violation of the provisions of this subsection shall constitute a misdemeanor as set forth in this chapter.
2. The annual fee for an exotic dance studio business license shall be five hundred dollars ($500.00). This amount shall be used for the cost of administration of this chapter.

3. The annual license fee for all other adult entertainment businesses subject to this chapter shall be one hundred fifty dollars ($150.00). This amount shall be used for the cost of administration of this ordinance.

4. The above-referenced licenses expire annually on December 31 and must be renewed by January 1.

5. The applicant must be 18 years of age or older.

B. License for managers and entertainers required.

1. No person shall work as a manager, assistant manager, or entertainer at an adult entertainment business without having first obtained a manager's or an entertainer's license from the clerk. Violation/penalty. It shall be unlawful and a person commits a misdemeanor as set forth in this chapter if he or she acts or performs as a manager or entertainer in an adult entertainment business without said valid and current license.

2. The annual fee for such a license shall be one hundred fifty dollars ($150.00). This amount shall be used for the cost of administration of this ordinance.

3. This license expires annually on December 31 and must be renewed by January 1.

4. The applicant must be 18 years of age or older.

Sec. 5.10.060. License applications.

A. Adult entertainment business. All applications for an adult entertainment business license for places which offer adult entertainment shall be submitted in the name of the person or entity proposing to conduct such adult entertainment on the business premises. All applications for an adult entertainment business license shall be signed by the applicant and notarized or certified to be true under penalty of perjury. All applications shall be submitted on a form supplied by the city, along with a non-refundable application processing fee of one hundred fifty dollars ($150.00), which shall contain the following information:

1. Names, any aliases or previous names, driver's license number, if any, business, mailing, and residential address, telephone number, and social security numbers for each individual, partner, corporate officer, director, and other persons holding a significant interest or responsibility for management of the business, specifying the interest or management responsibility of each such individual, partner, corporate officer and/or director for each applicant. For purposes of this section, significant interest shall mean those persons who own ten percent (10%) or greater interest in the adult entertainment business.

2. If a partnership, whether general or limited; and if a corporation, date and place of incorporation, evidence that it is in good standing under the laws of Washington, and name and address of any registered agent for service of process.
3. Addresses of the applicant for the five (5) years immediately prior to the date of application.

4. Any and all criminal misdemeanor or felony convictions or forfeitures, other than parking offenses or minor traffic violations, including dates of conviction, nature of the crime, name and location of court and disposition for each individual, partner, corporate officer and/or director identified in subparagraph 1 above.

5. A description of the business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application.

6. Whether the applicant or any individual, partner, corporate officer, or director identified in subparagraph 1 above has had a previous license under this chapter or other similar ordinances from another city or county denied, suspended, or revoked, including the name and location of the adult entertainment business for which the license was denied, suspended, or revoked, as well as the date of the denial, suspension, or revocation.

7. Whether the applicant or any individual, partner, corporate officer, or director identified in subparagraph 1 above holds any other licenses under this chapter, or other similar adult entertainment business ordinance from another city or county and, if so, the names and locations of such other permitted businesses.

8. The single classification of license for which the applicant is filing.

9. The location of the proposed adult entertainment business, including a legal description of the property, street address, and telephone number(s), if any, together with the name and address of each owner and lessee of the property.

10. Two (2) two-inch by two-inch color photographs of each applicant, taken within six (6) months of the date of the application, showing only the full face of the applicant. The photographs shall be provided at the applicant's expense. Alternatively, the applicant may be required to submit to a photograph taken at the direction of the clerk.

11. Complete sets of fingerprints of each individual, partner, corporate officer, and director on forms prescribed by the Chief of Police.

12. In the case of an exotic dance studio, a scale drawing or diagram showing the configuration of the premises for the proposed exotic dance studio, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, manager's office and stations, restrooms and service areas shall be clearly marked on the drawing. An application for a license for an exotic dance studio shall include building plans which demonstrate conformance with Kent's Building and Zoning Codes.

13. Authorization for the city, its agents and employees to investigate and seek information to confirm any statements set forth in the application.

14. Supplemental identification and/or information, as requested by the clerk, deemed necessary to confirm statements set forth in the application or determine compliance with this chapter.
B. Processing adult entertainment business license applications.
   1. Upon receipt of the complete application and fee, the clerk shall provide copies to the police, planning and other applicable departments for their investigation and review to determine compliance of the proposed adult entertainment business with the laws and regulations which each department administers. Each department shall, within thirty (30) days, report to the clerk whether such application and premises complies with the laws administered by each department. No license may be issued unless each department reports that the application and premises comply with the relevant laws. A department shall recommend denial of a license under this subsection if it finds that the proposed adult entertainment business is not in conformance with the requirements of any provision of any applicable statute, code, ordinance, regulation or other law in effect in the city. A recommendation for denial shall be in writing and cite the specific reason therefor, including applicable laws.

   2. An adult entertainment business license shall be issued by the clerk within thirty (30) days of the date of filing a complete license application and fee, unless the clerk determines that the applicant has failed to meet any of the requirements of this chapter or provide any information required under this subsection, or that the applicant has made a false, misleading or fraudulent statement of material fact on the application for a license, or in any report or records required to be filed with the clerk. In the event the clerk determines or learns at any time that the applicant has improperly completed the application for a proposed adult entertainment business license, he/she may grant an extension of time in which to supply the required information. (The time period for granting or denying a permit shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.) If the clerk finds that the applicant has failed to meet any of the requirements for issuance of an adult entertainment license, the clerk shall deny the application in writing, and shall cite, in writing, the specific reasons therefor, including applicable laws. If the clerk fails to issue or deny the application within thirty (30) days of the date of filing of a complete application and fee, the applicant may, subject to all other applicable laws, operate the business for which the license was sought until notified by the clerk that the license has been denied.

C. Manager or entertainer license. A separate license shall be obtained for each and every establishment at which the manager applicant will manage or the entertainer applicant will entertain. All applications for a manager's or entertainer's license shall be signed by the applicant and notarized or certified to be true under penalty of perjury. All applications shall be submitted on a form supplied by the city, along with a non-refundable application processing fee of one hundred dollars ($100.00), which shall contain the following information:

   1. The applicant's name, home address, home telephone number, date and place of birth, driver's license number, if any, social security number and, for entertainers, any stage names or nicknames used in entertaining.
2. The name and address of each business at which the applicant intends to work.

3. Documentation that the applicant has attained the age of eighteen (18) years. Any of the following shall be accepted as documentation of age:
   a. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth; or
   b. A state issued identification card bearing the applicant's photograph and date of birth.
   c. An official passport issued by the United States of America.
   d. An immigration card issued by the United States of America.
   e. Any other picture identification that the city determines to be acceptable.

4. A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county or state, except parking violations or minor traffic infractions.

5. A description of the applicant's principal activities or service to be rendered.

6. Resident addresses and telephone numbers for five (5) years immediately prior to the date of application specifying the period of residence at each address.

7. The names and addresses of employers or individuals or businesses for whom the applicant was an employee or independent contractor for the three-year period immediately prior to the date of application, including the period of employment.

8. Two (2) two-inch by two-inch color photographs of each applicant, taken within six (6) months of the date of the application, showing only the full face of the applicant. The photographs shall be provided at the applicant's expense. Alternatively, the applicant may be required to submit to a photograph taken at the direction of the clerk.

9. Complete sets of fingerprints of each manager and entertainer on forms prescribed by the Chief of Police.

10. Authorization for the city, its agents and employees to investigate and seek information to confirm any statements set forth in the application.

11. Supplemental identification and/or information, as requested by the clerk, deemed necessary to confirm any information set forth in the application or to determine compliance with this chapter.

D. Processing managers or entertainers license applications. A copy of the application shall be provided to the police and other applicable departments for its review, investigation and recommendation. An adult entertainment business manager's or an adult entertainer's license shall be issued by the clerk within fourteen (14) days from the date the
complete application and fee were received unless the clerk determines that the applicant has failed to provide any information required to be supplied according to this chapter, or that the applicant has made any false, misleading or fraudulent statement of material fact in the application for a license. In the event the clerk determines or learns at any time that the applicant has improperly completed the application for issuance of a managers or entertainers license, he/she may grant an extension of time in which to supply the required information. (The time period for granting or denying a license shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the applicant.) If the clerk determines that the applicant has failed to meet any of the requirements for issuance of a managers or entertainers license, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. An applicant for an adult entertainment manager's or entertainer's license shall be issued a temporary license upon receipt of a complete license application and fee. Said temporary license will automatically expire on the fourteenth (14th) day (or on such day established pursuant to any extension granted herein) following the filing of a complete application and fee, unless the clerk has failed to approve or deny the license application, in which case the temporary license shall be valid until the clerk approves or denies the application, or until the final determination of any appeal from a denial of the application.

Sec. 5.10.070. Issuance of licenses.
Upon completion of the investigation and review by the departments, a review of the recommendations and verifications, and a determination that all matters contained in the application are true and correct and that this chapter has been complied with, the clerk shall issue such license applied for in accordance with the provisions of this chapter. The applicable license fee, together with any delinquent fees that may then be due shall first be paid to the city.

Sec. 5.10.080. Denial of Application for Licenses. The clerk shall deny the application to:

a. An applicant who is under eighteen (18) years of age.
b. An applicant who is overdue on his/her payment to the City of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to an adult entertainment business.
c. An applicant whose place of business is conducted by an agent, unless such agent possesses the same qualifications required of the licensee, or in the case of a manager of an adult entertainment business, the manager has obtained a manager’s license.
d. A partnership, unless all the members thereof are qualified to obtain a license as provided in this chapter. Such license shall be issued to the manager or agent of said partnership.
e. A corporation, unless all the officers and directors thereof are qualified to obtain a license as provided herein. Such license shall be issued to the manager or agent of said corporation.
f. An applicant who has failed to provide information required on a license application for the issuance of the license or has made, with the intent to mislead, a materially false representation in the application for a license under this chapter which the applicant knows to be false.

g. The applicant has failed to comply with any provision or requirement of this chapter.

h. An applicant having an interest in any license granted under this chapter revoked within six months from the date of application.

Sec. 5.10.090. License term - renewals.

A. There shall be no prorating of the license fees for licenses required pursuant to this chapter, and all such licenses shall expire on the thirty-first day of December of each year, except that in the event that the original application is made subsequent to June 30, then one-half of the annual fee may be accepted for the remainder of said year.

B. Application for renewal of licenses issued hereunder shall be made to the clerk no later than thirty days prior to the expiration of adult entertainment business licenses and managers and entertainers business licenses. The renewal license shall be issued in the same manner and on payment of the same fees as for an original application under his chapter. All applicants for a license renewal shall present their current license for verification of identity, and upon issuance of a renewed license, shall surrender the expiring license to the clerk. There shall be assessed and collected by the clerk, an additional charge of twenty-five percent (25%) of the license fee, on applications not made on or before said date.

C. The clerk shall renew a license upon application unless the clerk is aware of facts that would disqualify the applicant from being issued the license for which he or she seeks renewal, and further provided that the application complies with all provisions of this chapter as now enacted or as the same may hereafter be amended.

Sec. 5.10.100. Other license requirements.

A. Duty to Supplement.

1. Applicants for a license under this chapter shall have a continuing duty to promptly supplement application information required in the event that said information changes in any way from what is stated on the application. If any person or entity acquires, subsequent to the issuance of an adult entertainment business license for places offering adult entertainment, an interest in the licensed premises or the licensed business, immediate notice of such acquisition shall be provided in writing to the clerk. The notice shall include the information required to be provided for the original adult entertainment business. The failure to supplement the application on file with the clerk regarding such change in ownership or interest, within thirty (30) days from the date of such change, shall be grounds for suspension or revocation of a license.
2. The applicant must be qualified according to the provisions of this Section and the premises must be inspected and found to be in compliance with health, fire, and building codes of the City.

3. The fact that a person possesses other types of State or City permits and/or licenses does not exempt him/her from the requirement of obtaining an adult entertainment business.

B. Manager on Premises. A licensed manager shall be on duty on the premises of an adult business at all times that adult entertainment is being provided.

C. License Nontransferable.
No license or permit issued pursuant to this chapter shall be assignable or transferable. For purposes of this chapter, "assignable" or "transferable" shall mean and include any of the following:

1. The sale, lease or sublease of the business; or
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
3. The establishment of a trust, gift or other similar legal devise which transfers the ownership or control of the business, except for transfer by bequest or other operation of law.

D. Name of Business and Place of Business.
No person granted a license pursuant to this chapter shall operate the adult entertainment business under a name not specified in the license, nor shall he or she conduct business under any designation or location not specified in the license.

E. License - Posting and Display.
1. The adult entertainment business license, if granted, shall state on its face the name of the person or persons to whom it is issued, the expiration date, and the address of the licensed adult entertainment business. The license shall be posted in a conspicuous place at or near the entrance to the licensed premises so that it can be easily read at any time the business is open.

2. The license of the manager on duty shall be prominently posted during business hours.

3. Entertainer licenses need not be posted, but must be available on the premises when the entertainer is on the premises, for immediate inspection by any city official or law enforcement agency having jurisdiction.

4. Violation/penalty. Any violation of the provisions of this subsection is a misdemeanor as set forth in this chapter.

F. Inspection of licenses.
The manager shall, upon request by any law enforcement officer or business license inspector, make available for inspection the entertainer licenses required to be on the premises as described herein.
Sec. 5.10.110. Specifications - exotic dance studios.
A. Separation of Adult Entertainment Performance Area. The portion of the exotic dance studio premises in which dancing and adult entertainment by an entertainer is performed shall be a stage or platform at least twenty-four (24) inches in elevation above the level of the patron seating areas. The stage(s) must be visible from the common areas of the premises and at least one manager's station.

B. Lighting. Sufficient lighting shall be provided and equally distributed in and about the parts of the premises which are open to and used by patrons so that all objects are plainly visible at all times, and shall be illuminated so that patrons, on any part of the premises open to the public, shall be able to read a program, menu, or list printed in eight (8) point type.

C. Visibility. Neither the performance nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying nudity may be visible outside the premises of the adult entertainment business.

D. Submittal of Plans. Building plans showing conformance with the requirements of this Section shall be included with any application for an exotic dance studio business license.

E. Signs. Signs of sufficient size to be readable at twenty (20) feet shall be conspicuously displayed in the public area of the establishment stating the following:

THIS ADULT ENTERTAINMENT ESTABLISHMENT IS REGULATED BY THE CITY OF KENT. ENTERTAINERS ARE:
(A) Not permitted to engage in any type of sexual conduct;
(B) Not permitted to appear nude, except on stage;
(C) Not permitted to solicit or demand or to directly accept, or receive any gratuity or other payment from a patron.

Sec. 5.10.120. Standards of conduct and operation applicable to exotic dance studios.
A. Standards for Patrons, Employees and Entertainers. The following standards of conduct must be adhered to by patrons, entertainers and/or employees of exotic dance studios at all times adult entertainment is performed.

1. Admission to exotic dance studios under this section shall be restricted to persons of the age of eighteen (18) years or more.

2. All dancing and adult entertainment by an entertainer shall occur on the entertainment performance areas intended for that purpose described in Section 5.10.110(A).

3. No dancing or adult entertainment by an entertainer shall occur closer than ten (10) feet to any patron.
4. No patron or customer shall go into or upon the adult entertainment performance area described in Section 5.10.110(A) above while adult entertainment is being performed.

5. No employee or entertainer shall be nude or shall entertain while nude except on the entertainment performance area described in subsection 5.10.110(A).

6. No member of the public or employee or entertainer shall allow, encourage, or knowingly permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus, pubic area, or genitals of any other person.

7. No member of the public or employee or entertainer shall allow, encourage, or permit physical contact between an employee or entertainer and any member of the public, which contact is intended to arouse or excite sexual desires.

8. No employee or entertainer shall perform acts in a lewd or obscene fashion or perform acts of or acts which simulate:
   a. Specified sexual activities as defined in this chapter; or
   b. The touching, caressing or fondling of the breasts, buttocks or genitals.

9. No entertainer employed or otherwise working at an exotic dance studio shall solicit any gratuity or other payment from a patron or customer.

10. No customer or patron of an adult entertainment business shall directly pay or give any gratuity or other payment to any entertainer.

11. It is unlawful for any entertainer, manager, employee, or waitperson to perform more than one such function at an exotic dance studios on the same business day.

12. It is unlawful for any entertainer to use any stage name or nickname not listed in the application for entertainers license.

13. No exotic dance studio licensee shall employ as an entertainer a person under the age of eighteen years or a person not licensed pursuant to this chapter.

14. No exotic dance studio licensee shall service, sell, distribute, or suffer the consumption or possession of any intoxicating liquor or controlled substance upon the premises of the licensee.

B. The responsibilities of the manager of an exotic dance studio shall include but are not limited to:

1. A licensed manager shall be on duty at an exotic dance studio at all times adult entertainment is being provided or members of the public are present on the premises. The name and license of the manager shall be prominently posted during business hours. Managers shall be required to verify and ensure that entertainers possess a current and valid entertainer license available for immediate inspection on the premises.

2. The licensed manager on duty shall not be an entertainer.
3. The manager licensed under this Chapter shall maintain visual observation of each member of the public at all times any entertainer is present in the public or performance area of the exotic dance studio. Where there is more than one performance area, or the performance area is of such size or configuration that one manager or assistant manager is unable to visually observe, at all times, each adult entertainer, each employee, and each member of the public, a manager or assistant manager licensed under this Chapter shall be provided for each public or performance area or portion of a public or performance area visually separated from other portions of the exotic dance studio.

4. The manager shall be responsible for and shall assure that the actions of members of the public, the adult entertainers and all other employees shall comply with the dress code and conduct set forth in Section 5.10.120 and all other requirements of this chapter.

C. Violation/penalty. Any violation of the provisions of this section by a patron, owner, operator, manager, or any employee is a misdemeanor as set forth in this chapter.

Sec. 5.10.130. Regulations applicable to adult arcades.

All adult arcades shall comply with the following additional regulations:

A. Construction/Maintenance.
   1. The interior of the show premises shall be arranged in such a manner as to insure that customers are fully visible from the waist down, and all persons viewing such panorama pictures shall be visible from the common areas of such premises.
   2. The licensee shall not permit any doors to public areas on the premises to be locked during business hours.
   3. Any room or area on such premises shall be readily accessible at all times for inspection by any law enforcement officer or license inspector.
   4. The licensee shall maintain, at a minimum, illumination as required in this chapter for exotic dance studios generally distributed in all parts of the premises at all times when the facility is open or when the public is permitted to enter or remain therein.

B. Standards of Conduct.
   1. No patron shall be unclothed or in such attire, costume or clothing so as to be in a state of nudity or engage in any specified sexual activity and no owner or manager shall knowingly allow such conduct.
   2. No more than one patron at a time shall be present in a booth, cubicle, room, or stall wherein adult entertainment is provided is visible.
   3. Violation/penalty. Any violation of the provisions of this subsection by a patron, owner, operator, manager, or any employee is a misdemeanor as set forth in this chapter.
Sec. 5.10.140. Regulations applicable to book stores, video stores and other businesses not qualifying as adult entertainment businesses.

A. Book stores, video stores, and other businesses that sell or otherwise distribute books, magazines, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of nudity or specified sexual activities, and less than 20% of their stock-in-trade or revenues comes from the rental or sale of such items shall be subject to the following regulations:

1. All such items as are described above shall be physically segregated and closed off from other portions of the store such that these items are not visible and/or accessible from other portions of the store.

2. No advertising for such items shall be posted or otherwise visible, except where such items are authorized for display.

3. Signs readable at a distance of 20 feet shall be posted at the entrance to the area where such items are displayed stating that persons under the age of eighteen (18) are not allowed access to the area where such items are displayed.

4. The manager or attendant shall take responsible steps to monitor the area where such items are displayed to insure that persons under eighteen (18) years of age do not access the age-restricted area.

5. Employees of such businesses shall check identification of persons appearing to be eighteen (18) or under to insure that such items are not rented or sold to persons under the age of eighteen (18).

B. Violation/penalty. Rental or sale of obscene material (as defined by state law) or material harmful to minors (as defined by state law) to persons under eighteen (18) years of age is prohibited. Any violation of the provisions of this subsection by an owner, operator or manager of an adult entertainment business is a misdemeanor as set forth in this chapter.

Sec. 5.10.150. Exemptions.

A. This chapter shall not be construed to prohibit:

1. Plays, operas, musicals, or other dramatic works which are not obscene;

2. Classes, seminars and lectures held for serious scientific or educational purposes; or

3. Exhibitions or dances which are not obscene.

B. For purposes of this chapter, an activity is obscene if:

1. Taken as a whole by an average person applying contemporary community standards the activity appeals to a prurient interest in sex;

2. The activity depicts patently offensive representations according to city community standards of:
a. Ultimate sexual acts, normal or perverted, actual or simulated; or

b. Masturbation, fellatio, cunnilingus, bestiality, excretory functions, or lewd exhibition of the genitals or genital area; or violent or destructive sexual acts, including but not limited to human or animal mutilation, dismemberment, rape or torture; and

3. The activity taken as a whole lacks serious literary, artistic, political, or scientific value.

C. For purposes of this chapter, an activity is dramatic if the activity is of, related to, devoted to, or concerned specifically or professionally with current drama or the contemporary theater.

Sec. 5.10.160. Record keeping requirements.

A. All licenses, papers, records, and things required to be kept pursuant to this chapter shall be open to inspection by the clerk during the hours when the licensed premises are open for business, upon two days' written notice. The purpose of such inspections shall be to determine whether the licenses, papers, records, and things meet the requirements of this chapter.

B. Each adult entertainment business shall maintain and retain for a period of two years the name, address, and age of each person employed or otherwise retained or allowed to perform on the premises as an adult entertainer, including independent contractors and employees. This information shall be open to inspection by the clerk during hours of operation of the business upon twenty-four hours notice to the licensee.

C. No later than March 1 of each year an erotic dance studio licensee shall file a verified report with the clerk showing the licensee's gross receipts and amounts paid to entertainers for the preceding calendar year.

Sec. 5.10.170. Inspections.

In order to insure compliance with this chapter, all areas of licensed adult entertainment businesses which are open to members of the public shall be open to inspection by city agents and employees during the hours when the premises are open for business. The purpose of such inspections shall be to determine if the licensed premises are operated in accordance with the requirements of this ordinance. It is hereby expressly declared that unannounced inspections are necessary to insure compliance with this ordinance.

Sec. 5.10.180. Hours of operation.

It is unlawful for any adult entertainment business premises, to be conducted, operated, or otherwise open to the public between the hours of two a.m. (2:00 a.m.) and ten a.m. (10:00 a.m.). Violation/penalty. Any violation of the provisions of this section by the owner, operator or manager of an adult entertainment business is a misdemeanor as set forth in this chapter.
Sec. 5.10.190. Appeal of license denial - hearing.

A. Notice. Any person aggrieved by the action of the clerk in refusing to issue or renew any license issued under this chapter shall have the right to appeal such action to the hearing examiner by filing a notice of appeal with the clerk within ten (10) days of notice of the refusal to issue or renew. Such appeal shall be processed pursuant to the hearing procedures set forth in Chapter 2.32 of the Kent City Code. The hearing examiner shall set a date for hearing such appeal, to take place within forty-five (45) days of the date of receipt of the notice of appeal unless such time is extended by mutual consent. At such hearing the appellant and other interested persons may appear and be heard, subject to rules and regulations of the hearing examiner.

B. Final Administrative Review. Appeal to the hearing examiner shall constitute final administrative review.

C. Appeal to Superior Court. An appeal of the decision of the hearing examiner must be filed with Superior court within thirty (30) calendar days from the date the hearing examiner's decision was personally served upon or was mailed to the person to whom the notice of civil violation was directed, or is thereafter barred.

Sec. 5.10.200. License suspension and revocation - hearing.

A. Grounds. The clerk, upon the recommendation of the chief of police or other city official responsible for administering laws and regulations pertaining to any license issue under this chapter, or his/her designee, may suspend or revoke any license issued under the provisions of this chapter at any time where the same was procured by fraud or through a materially false representation of fact; or for the violation of, or failure to comply with, the provisions of this chapter or any other similar local or state law by the licensee or any of his/her servants, agents or employees; or the conviction of the licensee, or any of his or her servants, agents, or employees, of any crime or offense involving prostitution, promoting prostitution, sexual crimes against children, sexual abuse, rape, distribution of obscenity or material harmful to minors, or transactions involving controlled substances (as that term is defined in RCW Chapter 69.50) committed on the premises of the adult entertainment business.

B. Suspension and Revocation. A license procured by fraud or misrepresentation shall be revoked. Where other violations of this chapter or other applicable ordinances, statutes or regulations are found, the license shall be suspended for a period of thirty (30) days upon the first such violation, ninety (90) days upon the second violation within a 24 month period, and revoked for third and subsequent violations within a 24 month period, not including periods of suspension; EXCEPT that where the city building official or fire marshall or their designees or the King County Health Department find that any condition exists upon the premises of an adult entertainment business which constitutes a threat of immediate serious injury or damage to persons or property, said official may immediately suspend any license issued under this chapter pending a hearing in accordance with Section 5.10.190 above. The
official shall issue notice setting forth the basis for the action and the facts that constitute a threat of immediate serious injury or damage to persons or property.

C. **Notice.** The clerk shall provide at least ten (10) days prior written notice to the licensee of the decision to suspend or revoke the license. Such notice shall inform the licensee of the right to appeal the decision to the hearing examiner and shall state the effective date of such revocation or suspension and the grounds for revocation or suspension. Such appeal shall be processed pursuant to the hearing procedures set forth in Chapter 2.32 of the Kent City Code. The hearing examiner shall set a date for hearing such appeal, to take place within forty-five (45) days of the date of receipt of the notice of appeal unless such time is extended by mutual consent. At such hearing the appellant and other interested persons may appear and be heard, subject to rules and regulations of the hearing examiner. The decision of the clerk shall be stayed during the pendency of any appeal except as provided in subsection E below.

D. **Final Administrative Review.** Appeal to the hearing examiner shall constitute final administrative review.

E. **Appeal to Superior Court.** An appeal of the decision of the hearing examiner must be filed with the Superior Court within thirty (30) calendar days from the date the hearing examiner's decision was personally served upon or was mailed to the person to whom the notice of suspension or revocation was directed, or is thereafter barred.

**Sec. 5.10.210. Nuisance declared.**

A. **Public nuisance.** Any adult entertainment business operated, conducted, or maintained in violation of this chapter or any law of the City of Kent or the State of Washington shall be, and the same is, declared to be unlawful and a public nuisance. The City Attorney may, in addition to or in lieu of any other remedies set forth in this chapter, commence an action to enjoin, remove or abate such nuisance in the manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person from operating, conducting or maintaining an adult entertainment business contrary to the provisions of this chapter.

B. **Moral nuisance.** Any adult entertainment business operated, conducted or maintained contrary to the provisions of RCW Chapter 7.48A, Moral Nuisance, shall be, and the same is declared to be, unlawful and a public and moral nuisance and the City Attorney may, in addition to or in lieu of any other remedies set forth herein, commence an action or actions, to abate, remove and enjoin such public and moral nuisance, or impose a civil penalty, in the manner provided by RCW Chapter 7.48A.

**Sec. 5.10.220. Limitation of liability.**

None of the provisions of this ordinance are intended to create a cause of action or provide the basis for a claim against the City, its officials, or employees for the performance or
the failure to perform a duty or obligation running to a specific individual or specific individuals. Any duty or obligation created herein is intended to be a general duty or obligation running in favor of the general public.

Sec. 5.10.230. Violation; penalty - misdemeanor.

In addition to other remedies provided for in this chapter, any person violating any of the provisions of this chapter constituting a misdemeanor shall, upon conviction, be punished by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment, and each and every day during which any violation is committed, continued or permitted shall be deemed a separate offense; provided, no person shall be deemed guilty of any violation of this ordinance if acting in an investigative capacity pursuant to the request or order of the police chief or prosecuting attorney or duly-appointed agent thereof.

Sec. 5.10.240. Additional enforcement.

The remedies found in this chapter are not exclusive, and, the City may seek any other legal or equitable relief, including but not limited to enjoining any acts or practices which constitute or will constitute a violation of any business license ordinance or other regulations herein adopted.

Sec. 5.10.250. 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. Any ordinance or regulation in conflict with this ordinance is hereby repealed.

SECTION 2. REPEALER. That Ordinance No. 2778 as codified in Chapter 5.11 of the Kent City Code is hereby repealed.

SECTION 3. 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.

JIM WHITE, MAYOR
ATTEST:

Brenda Jacober
BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

ROGER A. LUBOVICH, CITY ATTORNEY

PASSED 7th day of March, 1995.
APPROVED 8th day of March, 1995.
PUBLISHED 10th day of March, 1995.

I hereby certify that this is a true copy of Ordinance No. 3214, 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 (SEAL)
BRENDA JACOBER, CITY CLERK