Ordinance No. 3471
(Amending or Repealing Ordinances)

CONO=538 – Street Standards
Passed 8/17/1999
Street Use Permits (Amends Chapter 6.07 {Secs. 6.07.010-.210)

Amends Ords. 2286, 3138 & 3192

Readopting, re-enacting, ratifying & confirming rates & fees by Ord. 3534

Amended by Ord. 3713 (Sec. 6.07.010 & 6.04.170)
Amended by Ord. 3819 (Sec. 6.07.170)
Amended by Ord. 4019 (Sec. 6.07.040; 6.07.170)
AN ORDINANCE of the City Council of the City of Kent, Washington, amending Chapter 6.07 of the Kent City Code entitled "Street Use Permits" by adding subsections relating to street vending, sidewalk cafes, and sidewalk displays upon public places within the City of Kent, and by making other related amendments.

WHEREAS, there has been increased interest in the use of public places in the City for the purpose of locating and operating street vending units, sidewalk cafes, and sidewalk displays; and

WHEREAS, the City Council finds that it is desirable to allow these types of uses on public places within the City if appropriately regulated so as not to create a public nuisance or a public safety hazard; and

WHEREAS, in order to allow these types of uses on public places in a manner that does not create a public nuisance or public safety hazard, it is appropriate to amend the Kent City Code provisions relating to street uses; and

WHEREAS, the City Council finds it appropriate to define the post-election period for removal of political signs in order to ensure a period of time between elections when signs are to be removed in order to minimize confusion to voters of the candidates and the office they seek; and

Street Use Permits
WHEREAS, the City Council also finds it appropriate to make other related amendments to this code; NOW, THEREFORE,

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

SECTION 1. Chapter 6.07 of the Kent City Code is hereby amended 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:

A. Abutting property means and includes property bordering upon and contiguous to a public place.

B. Applicant means any person or entity applying for the issuance or renewal of a street use permit or any person or entity that has been issued a street use permit.

C. 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.

D. Director means the director of public works of the city and/or his or her designee including Kent city code enforcement officials.

E. Driveway means that portion of a public place which provides vehicular access to abutting property through a depression in the constructed curb or, when there is no constructed curb, that area in front of such abutting property as is well defined or that is designated by authorized signs or markings.
F. **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.

G. **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.

H. **Sidewalk cafe** means a portion of a public sidewalk on which tables and chairs are placed for the use of patrons while consuming food and/or beverages, including liquor as defined in RCW 66.04.010, served by a cafe, restaurant or tavern located on abutting property.

I. **Sidewalk display** means a display of goods and wares on a public sidewalk for retail sale to the public by the owner or manager of a business upon abutting property, which products are being offered for sale inside the business.

J. **Sidewalk vending unit** or **vending unit** means a movable cart or similar device that is operated from a fixed location on a public way from which food, beverages (excluding liquor), flowers, plants, and/or merchandise are provided to the public with or without charge. The provisions of this chapter shall not apply to mobile caterers, generally defined as: person(s) engaged in the business of transporting food and beverages in motor vehicles to residential, business, and industrial establishments pursuant to prearranged schedules, and dispensing items from the vehicles for retail sale to the personnel of such establishments.

K. **Sign** means any medium, including its structure and component parts, which is used or intended to be used out of doors to attract attention to the subject matter for advertising, identification, or informative purposes.

L. **Special events** means carnivals, fairs, festivals, parades, and other similar short-term uses of public places.
M. *Use* means and includes, but is not limited to, the following types of uses: to conduct a parade or other similar event upon any public place; to operate any sidewalk display, café or restaurant, or any food cart or other similar vending unit upon any public place; to construct, store, erect, place, maintain, or operate in, upon, over or under any public place, any sidewalk café, 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.

N. *Vending* means the commercial sale of food, beverages (excluding liquor), flowers, plants, and/or merchandise only from a sidewalk vending unit upon public ways of the City of Kent. Vending does not include liquor as defined in RCW 66.04.010, tobacco, firearms, munitions, or any article which a minor is prohibited by law from purchasing, or any materials restricted by the fire code from direct access or handling by the public.

**Sec. 6.07.030. Permit required.** 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 as required in this chapter and without complying with all the provisions of this chapter.

**Sec. 6.07.030. Uses and permits**

**Sec. 6.07.040. Construction and property development.**
A. Uses related to construction and property development. Generally. 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 application is made for a permit to make an addition, alteration or repairs to a single-family residence;

2. An applicant application is made 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: Moving of Structures. Prior to application and issuance of a street use permit for any building or structure to be moved across, along, or upon any public place within the city and sited within the city, the applicant shall first obtain a building permit for the siting of such building or structure.

Sec. 6.07.050. Signs. The following provisions shall apply to the placement of signs on public places:

A.1. No person shall place a sign on any public place except as follows Signs may be placed on a public place without a permit only as follows:

A.1.a. Portable signs. Portable signs as defined herein may be placed on a public place without a permit upon the following conditions:

1. 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.

a. The location of the sign shall not reduce or obstruct pedestrian passage on the sidewalk to less than four (4) feet to the nearest street trees, utility poles, traffic control signs and devices, parking meters, fire hydrants, buildings and other similar...
devices and structures. Furthermore, such placement shall be consistent with any applicable standards established by the American with Disabilities Act and shall not obstruct vehicular traffic or parking or the use of any crosswalk, wheelchair ramp, bus, or taxi zone.

(2)b. 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.

(3)c. No portable sign shall be installed in, or placed within twenty (20) ten (10) feet of a driveway, wheelchair ramp, crosswalk, 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.

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

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

(6)f. Attachment of paper, plastic, balloons, or cardboard to a sign entrance is not permitted if such attachment extends the approved height or width of the sign.

(7)g. 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.

b2. 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 post-election removal within seven (7) days following the
date of the election for which the campaign signs were displayed. For general and primary elections, it is a rebuttable presumption that the post-election period extends to January 1st of the year of said election(s), after their use.

3. **Banners.** Banners may be placed on a public place only by permit pursuant to the provisions of this chapter.

4. **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.

5. **Removal.** Owners of signs and banners displayed for temporary events shall be responsible for their removal within seven (7) days following the last date of the event or the activity for which the signs were displayed.

**B. 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.

**Sec. 6.07.060. Street Vendors.** No person shall sell, offer for sale, solicit orders, rent, lease, or otherwise peddle from a public place, using a mobile cart, using a vehicle, or by any other mobile method without first obtaining a vending permit as follows:

A. **Permit Application.** In addition to the information required by this chapter, the applicant must provide the following before a vending permit can be issued:

1. Submit the name and home and business addresses of the applicant, and the name and address of the owner, if other than the applicant, of the vending business or sidewalk vending unit to be used in the operation of the vending business.
2. Submit written approval for the vending by the abutting property owner and/or street level tenant; if the tenant and property owner disagree, the property owner's decision controls. The street level retail occupant of the abutting property shall have the right of first refusal for a permit subject to the abutting property owner’s written approval.

3. Submit an accurate drawing showing the public area to be used, along with plans detailing the design and size of the vending unit to be used.

4. Procure and maintain liability insurance pursuant to Section 6.07.140(e), naming the City of Kent and the abutting property owner as additional insureds in the amount of five hundred thousand dollars ($500,000.00).

B. Location review. Upon receipt of an application for a permit or permit renewal, the director shall review the location to determine if it is suitable for vending. In making this determination, the director shall consider the following criteria:

1. A sidewalk vending unit is limited to one assigned location.

2. No permit shall be issued for a location within ten (10) feet of a driveway, wheel chair ramp, bus stop sign, or crosswalk at any intersection or any location which unreasonably interferes with the public's or City's use of the right-of-way. The location of the vending unit shall not reduce or obstruct pedestrian passage on the sidewalk to less than four (4) feet to the nearest street trees, utility poles, traffic control signs and devices, parking meters, fire hydrants, buildings and other similar devices and structures.

3. The permit operating area must be within a commercial or industrial zone as such are defined in the Kent Zoning Code.

4. No permit for a vendor shall be issued for a proposed vending site located within two hundred (200) feet of an existing vendor or retail store in which the permit applicant's product is the primary product of the existing vendor's site or retail store without the written consent of said permitted vendor or retail store. This distance requirement shall not apply to applications for special events or festivals issued under a Master Use Permit issued pursuant to Section 6.07.100.

5. If a proposed vending site is located within two hundred (200) feet of a park or public school, the vendor must present written consent of the city's director of
Parks and Recreation or the school district, respectively; if a proposed vending site is located within two hundred (200) feet of a private school, the vendor must present written consent of the administrator or manager of the private school. This distance requirement shall not apply to applications for special events or festivals issued under a Master Use Permit issued pursuant to Section 6.07.100.

6. The use of vending devices must be compatible with and must not unreasonably interfere with the public interest in use of the public ways as public rights-of-way.

7. The location of the sidewalk vending unit shall not reduce or obstruct pedestrian passage on the sidewalk to less than four (4) feet to the nearest street trees, utility poles, traffic control signs and devices, parking meters, fire hydrants, buildings and other similar devices and structures. Furthermore, such placement shall be consistent with any applicable standards established by the American with Disabilities Act and shall not obstruct vehicular traffic or parking or the use of any crosswalk, wheel chair ramp, bus, or taxi zone.

8. No person or corporation shall either pay or accept payment for the written consent required for issuance or continued operation of a sidewalk vending permit.

9. In the event that two or more applications for the same location are received, the earliest application, if approved, shall be awarded the location.

C. Health and safety standards.

1. Vendors of food and beverages shall comply with all standards established by the Seattle-King County Health Department.

2. All sidewalk vending units in which food or beverage preparation occurs shall be inspected and approved by the City Fire Department to assure compliance of any cooking or heating apparatus with the following provisions:

   a. Deep fat, oil, or grease cooking processes employing heated liquid shall be protected by a fire extinguishing system approved by the fire department. Processes involving heated fat, oil, grease, or liquids other than water shall be shielded from the public.
b. Processes requiring flammable gas, liquid, or solid fuels shall not be permitted, unless approved by the Fire Department. LPG containers shall be limited to no more than five gallons capacity, and no more than one container per cart or vendor display.

c. Storage of extra fuel is prohibited in the area of vending, or in any buildings, except as permitted by the Fire Department.

d. Vendors using open-flame cooking where steaks, hamburgers, sausages, hot dogs, or other products producing grease laden vapors are cooked shall not be stationed beneath the awning or canopy of a building. Exception may be made when evidence is presented satisfying the Fire Department that no special threat is imposed to the building or awning by virtue of vendor location.

e. Pressure-cooking appliances shall be prohibited.

f. A 40B; C fire extinguisher is required in all vending carts using open-flame cooking or cooking products producing grease laden vapors.

D. Conditions. Any person with a valid vending license issued pursuant to this chapter shall be subject to the following conditions:

1. All vendors must display, in a prominent and visible manner, the license issued by the director under the provisions of this chapter.

2. Food and beverages sold must be capable of immediate consumption.

3. The height of the vending unit, excluding canopies, umbrellas, or transparent enclosures, which must be approved by the director, shall not exceed five (5) feet and the vending unit must be capable of being pushed by one (1) person.

4. The vending site must be clean and orderly at all times, and the vendor must provide a refuse container for use by patrons.

5. Soliciting or conducting business with persons in motor vehicles is prohibited.

6. No merchandise shall be displayed using street furniture (planters, street lights, trees, trash containers, etc.) or placed upon the sidewalk. In addition, sales of merchandise shall not be allowed from a vehicle. No use of any automatic coin-operated
vending dispenser shall be allowed. Persons conducting a sidewalk business must use a sidewalk vending unit.

7. Vendors shall not hinder use of any phone booth, mailbox, parking meter, fire alarm, fire hydrant (including automatic sprinklers or standpipe connections), newspaper vending machine, waste receptacle, bench, transit stop, or traffic signal controllers.

8. Vendors shall obey any lawful order from a police officer or Fire Department official during an emergency or to avoid congestion or obstruction of the sidewalk.

9. No vendor shall make loud noises or use mechanical audio or noise-making devices or hawk to advertise his or her product.

10. No licensed sidewalk vending unit shall be left unattended on a sidewalk, nor remain on the sidewalk between midnight and 6:00 a.m.

11. Utility service connections are not permitted, except electrical, when provided by the owner of the abutting property. Electrical lines are not allowed overhead or lying in the pedestrian portion of the sidewalk.

12. Signs, banners and/or streamers may be attached to the vending unit for the purpose of advertising or identifying the vending unit, subject to approval of the abutting property owner (or representative or agent) and the director. As determined by the director, such signs, banners, and/or streamers shall be situated so as to not unreasonably obstruct views of neighboring property or create a public safety hazard.

Sec. 6.07.070. Sidewalk Cafes. No person may operate a sidewalk cafe without a permit from the director as follows:

A. Permit application. In addition to the information required by this chapter, an applicant must provide the following before a sidewalk cafe permit can be issued:

1. The anticipated periods of use during the year and the proposed hours of daily use, including Saturdays, Sundays, and holidays;

2. Whether any liquor, as defined in RCW 66.04.010, will be sold or consumed in the area to be covered by the permit; and
3. Procure and maintain liability insurance pursuant to Section 6.07.140(e), naming the City of Kent as additional insureds in the amount of one million dollars ($1,000,000.00).

B. Terms and Conditions.

1. The director may issue a permit for use of a sidewalk for sidewalk cafe purposes in the event and to the extent that he or she determines that:
   a. The applicant is the owner or occupant of the abutting property and operates a cafe, restaurant, or tavern thereon;
   b. The location of the sidewalk cafe shall not reduce or obstruct pedestrian passage on the sidewalk to less than four (4) feet to the nearest street trees, utility poles, traffic control signs and devices, parking meters, fire hydrants, buildings and other similar devices and structures. Furthermore, such placement shall be consistent with any applicable standards established by the American with Disabilities Act and shall not obstruct vehicular traffic or parking or the use of any crosswalk, wheel chair ramp, bus or taxi zone; and
   c. The proposed sidewalk cafe area is included within a food-service establishment permit issued by the Seattle-King County Health Department or has otherwise been authorized by said department.

2. The director may include such terms and conditions in the permit as the director may deem appropriate, including but not limited to:
   a. Restrictions as to the number and placement of tables and chairs and as to the hours and dates of use;
   b. A requirement that the area be cleared when not in use as a sidewalk cafe, or upon the order of the director or other appropriate city officer such as the Chief of Police or Fire Chief or their authorized representatives;
   c. Provisions that the permittees shall maintain the sidewalk in a clean and safe condition for pedestrian travel;
   d. A requirement that the applicant clear the sidewalk as may be necessary to accommodate deliveries to abutting or other nearby properties;
e. Regulations upon lighting and illumination of the sidewalk café, limitations upon noise, and restrictions upon the placement of furniture or equipment used in connection with the sidewalk café;

f. The posting of a surety bond or establishment of an escrow account in accordance with the provisions of this chapter;

g. If the sidewalk café causes a change in pedestrian travel patterns, appropriate modifications to the sidewalk in the immediate vicinity in order to accommodate the change or to assure compliance with the Federal Americans with Disabilities Act;

h. Restoration of the sidewalk upon completion of the use.

3. Unless expressly authorized by the director, no pavement shall be broken, no sidewalk surface disturbed, and no permanent fixture of any kind shall be installed in or on sidewalk area in connection with a sidewalk café.

4. The director may suspend or revoke the permission granted if an applicant violates this chapter, any implementing rules, or the terms and conditions of the permit.

C. Liquor. Liquor, as defined in RCW 66.04.010, as now existing or hereinafter amended, may be used and sold at a sidewalk café when authorized in both the use permit and provided for in this chapter and by permit of the Washington State Liquor Control Board, and not otherwise.

D. Sidewalk condition. The applicant shall comply with the terms and conditions of the sidewalk café permit issued, shall maintain the sidewalk in a clean and safe condition for pedestrian travel, and shall immediately clear the sidewalk area when ordered to do so by the director or other appropriate City officer such as the Chief of Police, Fire Chief or their authorized representatives.

Sec. 6.07.080. Sidewalk displays. The owner or manager of a business upon abutting property making retail sales to the public may, without a permit, display on a public sidewalk goods or wares that are being offered for sale inside the business. Sidewalk displays are subject to rules of the director, and the following criteria:
A. The location of the sidewalk display shall not reduce or obstruct pedestrian passage on the sidewalk to less than four (4) feet to the nearest street trees, utility poles, traffic control signs and devices, parking meters, fire hydrants, buildings, and other similar devices and structures. Furthermore, such placement shall be consistent with any applicable standards established by the American with Disabilities Act and shall not obstruct vehicular traffic or parking or the use of any crosswalk, wheel chair ramp, bus or taxi zone.

B. The display must be flush against the building of the abutting property, must leave entrances and driveways clear, and may not extend more than three (3) feet into the sidewalk.

C. The display must be removed during those hours that the business is closed. If the display is in place before sunrise or after sunset, the display must be lighted and readily visible to passing pedestrians on the sidewalk.

D. Sales of goods or merchandise displayed must occur on the abutting privately owned property.

E. The display may not contain liquor, tobacco, firearms, munitions, or any article which a minor is prohibited by law from purchasing, or any material restricted by the Fire Code from direct access or handling by the public.

F. The display must be removed any time the director, Chief of Police, or Fire Chief determines that a clear sidewalk is needed and requests removal for use of travel or transportation, street cleaning or maintenance, street utility work, a crowd control event or parade, or an emergency.

G. The city assumes no responsibility for the items on display, irrespective of whether the loss occurs through accident, collision, vandalism, theft or otherwise.

Sec. 6.07.090. Street closures.

A. 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.
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:

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

2. 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 or indemnity agreement and/or deposit as set forth in subsections 6.07.060, 6.07.140 and 6.07.150 below.

3. Use of city-approved signs and barricades for the closure.

Sec. 6.07.100. Master use permit. The director may issue a master use permit for special events and other instances involving multiple uses and/or users under this chapter. In such case, the director shall have the discretion to determine the amount of insurance that will be required depending on the risks associated with the level of uses under the permit. The director shall also have the discretion to modify the conditions of this chapter for the use(s) applied for as deemed appropriate in order to consolidate uses or accommodate multiple users under a master use permit.

Sec. 6.07.110. City development or use; exemptions. The requirements of this chapter shall not apply to:

A. 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.

B. The city initiated closure of any highway, street or road.

Sec. 6.07.120. Permit application. To obtain a permit under this chapter, the person shall file an application on a form furnished by the city for that purpose. Every application shall, where applicable:
A. 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.

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

C. Identify the owner of the property abutting the public place for which the permit is sought, being developed.

D. For construction and property development, to the extent required by the director:
   1. 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.
   2. Identify routes to be utilized to and from the property.
   3. Identify the contractor and subcontractor responsible for the development work.
   4. Include the state contractor's number of such contractor or subcontractor.
   5. Include the city business license number of such contractor or subcontractor.
   6. Include a copy of any building permit as required in section 6.07.050 C-(C) below for any building or structure to be moved across, along or upon any public place, pursuant to a permit issued herein, and sited within the city.

E. Provide other information as required to the director.

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

Sec. 6.07.050.130. Processing of applications.

A. The director shall examine each application submitted to determine if it complies with the provisions of this chapter. The director may also submit the application to other city departments such as the fire, police, and planning departments for review and comment. 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 after review of the application 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 abutting public or private property or otherwise constitute a threat to the health, safety and welfare of the public, then he or she the director may approve such application.

C. Prior to application and issuance of a street use permit for any building or structure to be moved across, along or upon any public place within the city and sited within the city, the applicant shall first obtain a building permit for the siting of such building or structure.

Sec. 6.07.060.140. 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 city unless the director determines that there is not a probability of injury, damage or expense to the city arising from an applicant's proposed use of any public place. 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. In lieu of or in addition to the cash indemnity deposit, the director may require, in lieu of or in addition to the cash indemnity deposit, the applicant to file with the public works 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:(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 shall be conditioned such that the applicant shall faithfully comply with all the terms of the permit, all the provisions of this chapter, and 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 public works 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. Subject to other requirements for insurance set forth in this chapter, the director may require an applicant to procure and maintain in full force and effect public liability insurance naming the City of Kent, in an amount sufficient to cover potential claims for bodily injury, death or disability, and for property damage, and when appropriate, as determined by the director, products and/or completed operations which may arise from or in connection with the permit. The director shall establish the amount of such insurance, and a certificate of insurance copy of the policy shall be provided to the city for review prior to issuance of the permit.
F. The director has the discretion to require one (1) 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. In addition, such agreement shall contain a provision that the permit is wholly of a temporary nature, that it vests no permanent right whatsoever, and that pursuant to the provisions of this chapter, that the permit may be revoked without cause upon thirty (30) days' notice or without such notice, in the event the permitted use shall become dangerous or unsafe or is not being operated in accordance with the provisions of this title, the same may be suspended or revoked.

Sec. 6.07.080. Permit issuance, expiration, and renewal.

A. Every permit issued under this chapter shall be issued conditioned upon and subject to the right of the city to restrict, suspend, or revoke the permit as provided in section 6.07.180 below.

B. Every permit issued by the department of public works director under provisions of this chapter Section 6.07.040 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 twelve (12) months from date of issuance.

C. Permits issued for special events or occurrences, such as festivals or street closures, shall expire on the date established by the director as the ending date of the event or occurrence.

D. All other permits issued pursuant to this chapter, except those permits for which a shorter term is herein specified, shall be effective as of the first day of the month of
issuance, regardless of the actual date of issue, and shall expire twelve (12) months from the effective date thereof, unless sooner revoked in the manner provided in this chapter.

E. Unless suspended, revoked or denied as provided in this chapter, and subject to a location review as set forth in this section, all permits issued pursuant to the provisions of this chapter may be renewed on or before the date of expiration of such permit, upon payment for the ensuing term of the established fee, minus the application charge. A vendor renewing a permit for a business that has changed the size of the vending area or location, or who has added heating or cooking apparatus since the last application/renewal must follow requirements for a new application.

F. Street use permits are not transferable.

Sec. 6.07.100-170. Permit and inspection fees.

A. The basic fee for a street use permit shall be as follows: under subsection 6.07.030A above shall be fifty dollars ($50.00). The basic fee for a street use permit under subsections 6.07.030 B., C. and D. above shall be twenty-five dollars ($25.00).


2. Sec. 6.07.060. Street Vendors: one hundred dollars ($100) per year. Permits are issued annually.

3. Sec. 6.07.070. Sidewalk Cafes: one hundred dollars ($100) per year. Permits are issued annually.

4. Sec. 6.07.090. Street Closures: fifty dollars ($50).

5. Sec. 6.07.100. Master Use Permit: one hundred dollars ($100).

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, an hourly rate to be established annually by the director.
Sec. 6.07.090.180. Special conditions, suspension or revocation for nonecompliance. Director’s decision to deny, revoke, suspend, or restrict.

A. Pursuant to the provisions of this chapter, the director shall have the power and authority to deny the issuance or renewal of any permit applied for or to revoke, suspend, or otherwise restrict any permit issued under this chapter. The director shall notify such applicant or permittee in writing, by mail or personal delivery, of the denial of a permit application or the suspension or revocation of an existing permit and the grounds therefor.

B. The issuance of a permit for use on a public way is subject to the use and needs of the city and the general public, whether such needs are temporary or permanent and for public or private purposes (i.e., utility construction work in public way by private service provider), and is a grant of a temporary revocable privilege to use a portion of the public way to serve and benefit the general public. The applicant shall have the burden to prove that any proposed use will enhance and further the public interest consistent and not in conflict with the use of the public way by the general public and the city for other authorized uses and activities. All permits granted under the provisions of this chapter may be restricted, suspended, or revoked without compensation by the director, upon thirty (30) days' prior notice when the use and needs of the city and general public are paramount to the applicant’s use or the applicant’s use does not enhance and further the public interest or is in conflict with the use of the public way. The director shall have the discretion to determine priorities of conflicting uses of public places or may deny any or all such uses or proposed uses.

C. Any permit issued under this chapter may be suspended or revoked immediately based on one or more of the following grounds:

1. Any other license or permit issued pursuant to this chapter has been suspended, revoked, or cancelled.
2. The applicant has violated or failed to meet any of the provisions of this chapter or is in violation of any other ordinances or regulations of the City relating to the use by applicant for which the permit is applied for or issued.

3. The applicant does not currently have in effect an insurance policy in the minimum amount as specified in this chapter.

4. The permit was procured by fraud or misrepresentation of fact or was issued in error or on the basis of incorrect information supplied to the City.

5. The abutting property owner or legal representative withdraws consent in writing for a sidewalk vending unit.

6. Health Department authorization for the sidewalk food or beverage vending unit is cancelled.

7. A sidewalk vending unit is not used within ninety (90) days of its issuance.

8. The applicant's use is creating a health or safety hazard or constitutes a public nuisance.

A-D. For permits issued for construction and property development, the following shall also apply:

1. **Streets/Storm Drains.** 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 has taken place to remedy the conditions or to obtain per compliance with the conditions of this section is about to occur, and the director of public works or designate determines in his or her judgment that it is in the best interest of the city that immediate action should be taken, the director 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.
2. **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.

3. **Stop Work Order.** In addition to any remedy provided for in this chapter, the director may issue a stop work order whenever a continuing violation of this section will materially impair the director's ability to secure compliance, or when a continuing violation threatens the health or safety of the public.

**Sec. 6.07.190 - Appeals.** Upon denial of issuance or renewal, or revocation, suspension or restriction of a permit, notice of such action shall be delivered, in writing, to the applicant by personal service or certified mail at the address specified by the licensee in the application. Any person aggrieved by the action of the director on a permit may within ten (10) days after notice of said action appeal to the hearing examiner by filing with the hearing examiner a written notice of the appeal, clearly stating the grounds on which the appeal is based. The appeal before the hearing examiner will be processed and heard pursuant to Chapter 2.32 of the Kent City Code. The decision of the hearing examiner shall be final and conclusive unless appealed to the superior court within twenty-one (21) days of the date of the hearing examiner's decision. If appeal is taken as herein prescribed, a suspension or revocation of a permit shall be stayed, except for a health, fire, or other public safety violation, pending final action by the hearing examiner.

**Sec. 6.07.110. 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. 6.07.120. 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. 6.07.130. 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. 6.07.200. Administrative policies. The director may establish administrative policies deemed appropriate to implement the provisions of this chapter.

Sec. 6.07.150-210. Violation; penalties.
A. Civil. Any violation of any provision of this chapter constitutes a civil violation under Kent City Code chapter Ch. 1.04 KCC 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 subject to a fine not to exceed the sum of one thousand ($1,000) dollars or imprisonment for a period not to exceed ninety (90) days, or both such fine or imprisonment.

SECTION 2. - Severability. If any one or more sections, subsections, or sentences of this Ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance and the same shall remain in full force and effect.

SECTION 3. - Effective Date. This Ordinance shall take effect and be in force thirty (30) days from the time of its final approval and passage as provided by law.

JIM WHITE, MAYOR

Street Use Permits
I hereby certify that this is a true copy of Ordinance No. 3471, 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

P/LAW/ORDINANCEVENDOR ORD