ORDINANCE NO. 3962

AN ORDINANCE of the City Council of the City of Kent, Washington, amending Chapter 5.01 of the Kent City Code, entitled “General Business Licenses,” to require all non-exempt business entities doing business in the City to obtain general business licenses.

RECITALS

A. The current version of the general business license chapter of the Kent City Code does not specifically require that businesses doing business within the City must obtain general business licenses even if those businesses have their premises, primary places of business or main offices outside the City.

B. The City Council of the City of Kent finds that it is in the best interests of its citizens to clarify the Code to specify that general business licenses must be obtained from all entities doing business in Kent, irrespective of the location of their premises, primary places of business, or main offices.

1 General Business License to Conduct Business in City—Amend Ch. 5.01 KCC
NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

ORDINANCE

SECTION 1. - Amendment - Ch. 5.01 KCC. Chapter 5.01 of the Kent City Code, entitled “General Business Licenses,” is amended as follows:

CHAPTER 5.01
GENERAL BUSINESS LICENSES

Sec. 5.01.010. Title. This chapter shall constitute the business license code of the City and may be cited as such.

Sec. 5.01.020. Power to license for regulation and/or revenue This chapter is adopted by the City, exercising its power authorized under general law to license and revoke the license for cause, to regulate, make inspections and to impose excises for revenue or regulation in regard to all places and kinds of businesses, occupations, trades, professions and any other lawful activity, as such power is described in the RCW 35A.82.020. The provisions of this chapter shall be liberally construed for the accomplishment of such purposes.

Sec. 5.01.030. Definitions. The following words and phrases used in this chapter, except where they shall be clearly contrary to or inconsistent with the context of the chapter or the section in which used, shall be construed as follows:

A. Business means all activities, occupations, trades, pursuits, professions and matters located within the City or within the City's jurisdiction, operated on a permanent and/or ongoing basis whether operated with the object of gain, benefit, advantage or profit, or operated not for profit, to the business enterprise or to another person, directly or
indirectly. Business herein shall also mean apartment and residential rental properties of three (3) or more units, but shall not mean governmental agencies. Such activities not requiring a business license may, however, be subject to temporary use regulations of KCC Title 15, Zoning. This chapter shall not apply to any business or business enterprise that the City is forbidden by law to tax.

B. Business enterprise means each location at which a person engages in business within the City.

C. Director means the planning director of the City or designee.

D. Department means the planning division of the department of economic and community development of the City.

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

F. Engage in business means to commence, conduct or continue in any business.

G. Entity means a person, or a legally created form of partnership, corporation or association, including employees thereof, engaged in business.

H. Licensee means any business granted a business license.

Sec. 5.01.040. Administration and enforcement.
A. The director of planning, under the authority granted pursuant to RCW Title 35A and the code, shall have general charge of, and supervision over, the administration and enforcement of this chapter and shall exercise such power and perform all the duties imposed upon him or her by this chapter through the department.

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

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

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

Sec. 5.01.050. General business license required. It is unlawful for any person entity to conduct, operate, engage in or practice any business in the City without having first obtained a general business license for the current calendar year or unexpired portion thereof, and paying the fees prescribed in this chapter; provided that, persons under the age of eighteen (18) years shall not be required to have a business license. - Entities with premises, primary places of business or main offices outside the City limits must be licensed before conducting business within the City limits.
Sec. 5.01.060. Separate general business license required. A separate license shall be obtained for each branch, establishment or location at which the business related activity is carried on, and each license shall authorize the licensee to carry on, pursue or conduct only that business, or business enterprise at that location. A separate license shall not be required for a facility determined by the director to be an accessory facility to a branch, establishment or location for which a license is issued. When the place of business of a business enterprise is changed, the licensee shall return the license to the department and a new license shall be issued for the new place of business free of charge, provided that the criteria for issuance, as set forth in KCC 5.01.100 are met at the new location.

Sec. 5.01.070. Licenses not transferable. No license issued under the provisions of this chapter shall be transferable or assignable unless otherwise specifically provided for; except that a license may be transferred when a business changes its structure of ownership; provided, however, that a new business license shall be required upon a substantial change of ownership, whereby those primarily accountable for the business have changed or upon substantial change in the type of business operated, whereby the primary business being conducted has significantly changed.

Sec. 5.01.080. License to be posted. All licenses issued pursuant to this chapter authorizing the operation or conducting of any occupation, business, trade or entertainment at a specified location shall be posted in a conspicuous place at such location. Such license shall be displayed by the licensee at the request of any interested person.

Sec. 5.01.090. Disclaimer of City liability. Issuance of a license pursuant to this chapter does not constitute the creation of a duty by the City to indemnify the licensee for any wrongful acts against the public, or
to guarantee the quality of goods, services or expertise of a licensee. The issuance of a license does not shift responsibility from the licensee to the City for proper training, conduct or equipment of the licensee or his agents, employees or representatives, even if specific regulations require standards of training, conduct or inspection.

Sec. 5.01.100 General qualifications of licensees.
A. No license shall be issued, nor shall any license be renewed, pursuant to the provisions of this chapter to:
   1. An applicant who is not eighteen (18) years of age at the time of application;
   2. An applicant who has had a similar license revoked or suspended pursuant to KCC 5.01.150;
   3. An applicant who shall not first comply with the general laws of the state; or
   4. An applicant who seeks such a license in order to practice some illegal act or some act injurious to the public health or safety.

B. Any person, including City officials, may submit complaints or objections to the director regarding the application for any license, and the director is additionally authorized to request and receive information from all City departments as will tend to aid him in determining whether to issue or deny the license. Such information shall be confidential unless a hearing is requested on the application, or if the applicant shall request the information in writing. All information, complaints or objections shall be investigated and considered by the director prior to issuing, denying or renewing any license.

Sec. 5.01.110. Application procedure, license fee.
A. The director is authorized to prepare a schedule of fees for general business licenses issued, and when approved by the City Council by resolution, such schedule shall govern the amount of the license fee.

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

C. The business owner shall make application for any business license required under this chapter to the director on a form prepared by the department, which application shall be accompanied by a receipt from the department showing payment of the required fee. Business licenses shall be granted annually. If the application is made within six (6) months of the date fixed for expiration, the fee shall be one-half the annual fee.

Sec. 5.01.120. Approval of business license. All licenses approved for issuance by the director shall be conditioned upon compliance at all times with all applicable ordinances, regulations and statutes of the City and the state.

Sec. 5.01.130. Renewal. The director shall mail the forms for application of business license renewals to business enterprises in the City to the last address provided to the director by the licensee. Failure of the business enterprise to receive any such form shall not excuse the business enterprise from making application for and securing the required license or renewal, or for payment of the license fee when and as due hereunder.

Sec. 5.01.140. Overpayment or refund of license fee. Whenever a business enterprise makes an overpayment, and within two (2) years after the date of such overpayment, makes an application for a
refund or credit for the overpayment, the claim shall be considered by the
director, and if approved, shall be repaid from the general fund.

Sec. 5.01.150  Denial, revocation or suspension of license
grounds, etc.

A. In addition to the other penalties provided by law, any business
license issued under the provisions of this chapter may be denied, revoked
or suspended at any time, where:

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

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

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

C. It is unlawful for any person whose license has been revoked or
suspended to continue operation of the business enterprise, or to keep the

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license issued to him in his possession and control, and the license shall immediately be surrendered to the director. When revoked, the license shall be canceled. When suspended, the director shall retain it during the period of suspension.

Sec. 5.01.160. Denial of license procedure. Upon denial of a license, the director shall, by certified mail, give written notice of such action to the applicant, which notice shall include a written report summarizing the complaints, objections and information received and considered by the director and further stating the basis for such action. Any applicant whose application is denied may, within ten (10) calendar days after notice of denial as provided in this section, request a hearing in writing on such denial before the hearing examiner. Any license for which renewal has been denied shall remain in effect pending the determination made as a result of such hearing examiner hearing. If no request for hearing is received within the time specified, the director's decision shall be final.

Sec. 5.01.170. Suspension or revocation procedure.
A. Actions to suspend or revoke any license shall be commenced by filing with the department a written complaint setting forth in specific terms the basis therefor. Upon receipt of such complaint, the director shall review the allegations set forth in the complaint and perform a preliminary review of the facts as deemed appropriate under the circumstances to determine if the allegations in the complaint may constitute cause for suspension or revocation. If the director determines that the allegations in the complaint may constitute cause for suspension or revocation, a copy of such complaint shall be mailed by certified mail to the licensee at his last address as shown by the license records of the director, and shall be accompanied by a notice that the license may be suspended or revoked.
B. The licensee shall, within ten (10) working days after receiving any such complaint, mail by certified mail to the complainant and file with the director his written answer which shall admit or deny the allegations of the complaint. The licensee may provide, with the answer, any other information which the licensee deems relevant for consideration by the director.

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

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

E. In all cases in which a complaint is dismissed, other than upon a written agreement between the complainant and licensee or in which denial, suspension, revocation or related action as provided for in this chapter is taken by the City, the aggrieved party may, within ten (10) working days of the mailing of the notice of the director's action, request a hearing, in writing, together with the appropriate hearing examiner filing fee, established by City Council resolution, both of which the director shall transmit to such hearing examiner. The director's recommended action to be taken shall constitute final action by the City should the aggrieved party fail to request a hearing as set forth in this section.
F. The hearing before the hearing examiner shall be held according to the procedures set forth in KCC 12.02.060. The hearing examiner’s decision on such business license shall represent the final action by the City, unless an appeal is made to the superior court within ten (10) working days after issuance of such decision.

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

Sec. 5.01.180. Penalties.

A. Monetary penalties.
   1. Penalty for operation of a business enterprise without a license shall be assessed by the director in an amount not to exceed five hundred dollars ($500). This penalty shall not apply to business enterprises failing to pay the license renewal fee as set forth in subsection (A)(2) of this section.
   2. Failure to pay the license fee within ninety (90) days after the date of expiration, pursuant to KCC 5.01.110, shall subject the licensee to a monetary penalty in the amount of fifty dollars ($50) to reinstate the license, in addition to the required license fee.

B. Collection. Any license fee or tax due and unpaid and delinquent under this chapter shall constitute a debt of the City. The City may, pursuant to Chapter 19.16 RCW, use a collection agency to collect unpaid fees or taxes owed or assessed, or it may seek collection by court proceedings, which remedies shall be in addition to all other remedies.
C. **Criminal penalties.** Any business licensee who violates or fails to comply with any of the provisions of this chapter or other lawful rule or ordinance adopted by the City pursuant thereto shall upon conviction be punished as described in the general criminal penalty provisions of KCC 1.01.140.

**Sec. 5.01.190. Application as public record.** General business license applications made to the director pursuant to this chapter shall be public information subject to inspection by all persons except to the extent those records may be deemed to be private or would result in unfair competitive disadvantage to such business enterprise if disclosed, all as more particularly described in Chapter 42.17 RCW.

**SECTION 2. - Severability.** If any one or more section, 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. - Corrections by City Clerk or Code Reviser.** Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

**SECTION 4. - Effective Date.** This ordinance shall take effect and be in force thirty (30) days from and after its passage as provided by law.

Suzette Cooke, Mayor
I hereby certify that this is a true copy of Ordinance No. 3962 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.