ORDINANCE NO. 4260

AN ORDINANCE of the City Council of the City of Kent, Washington, amending Section 3.28.050 of the Kent City Code, entitled “Imposition of the tax – Tax or fee levied,” and Section 3.28.130 of the Kent City Code, entitled “Limitation of revenue received,” to increase the square footage tax.

RECITALS

A. In 2012, the city enacted a Business and Occupation Tax and a Square Footage Tax.

B. The city now has a demonstrated need to increase its capital resources accounts.

C. The mayor has proposed this increase to address the need for increased capital resources.

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

ORDINANCE

SECTION 1. - Amendment. Section 3.28.050 of the Kent City Code, entitled “Imposition of the tax – Tax or fee levied,” is hereby amended as follows:
Sec. 3.28.050. Imposition of the tax – Tax or fee levied.

Except as provided in subsection (C) of this section, there is hereby levied upon and shall be collected from every person a tax for the act or privilege of engaging in business activities within the city, whether the person’s office or place of business be within or without the city. The tax shall be in amounts to be determined by application of rates against the gross proceeds of sale, gross income of business, or value of products, including byproducts, and by application of rates against the square footage of business office or facility space within the city, as the case may be, as follows:

A. Gross receipts tax.

1. Upon every person engaging within the city in business as an extractor; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including byproducts, extracted within the city for sale or for commercial or industrial use, multiplied by the rate of 0.152 hundredths of one percent (0.00152). The measure of the tax is the value of the products, including byproducts, so extracted, regardless of the place of sale or the fact that deliveries may be made to points outside the city.

2. Upon every person engaging within the city in business as a manufacturer, as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including byproducts, manufactured within the city, multiplied by the rate of 0.046 hundredths of one percent (0.00046). The measure of the tax is the value of the products, including byproducts, so manufactured, regardless of the place of sale or the fact that deliveries may be made to points outside the city.
3. Upon every person engaging within the city in the business of making sales at wholesale, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of 0.152 hundredths of one percent (0.00152).

4. Upon every person engaging within the city in the business of making sales at retail, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business, without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of 0.046 hundredths of one percent (0.00046).

5. Upon every person engaging within the city in the business of (a) printing, (b) both printing and publishing newspapers, magazines, periodicals, books, music, and other printed items, (c) publishing newspapers, magazines and periodicals, (d) extracting for hire, and (e) processing for hire; as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of 0.046 hundredths of one percent (0.00046).

6. Upon every person engaging within the city in the business of making sales of retail services; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales multiplied by the rate of 0.152 hundredths of one percent (0.00152).

7. Upon every other person engaging within the city in any business activity other than or in addition to those enumerated in the above subsections; as to such persons, the amount of tax on account of such activities shall be equal to the gross income of the business multiplied
by the rate of 0.152 hundredths of one percent (0.00152). This subsection includes, among others, and without limiting the scope hereof (whether or not title to material used in the performance of such business passes to another by accession, merger, or other than by outright sale), persons engaged in the business of developing or producing custom software or of customizing canned software, producing royalties or commissions, and persons engaged in the business of rendering any type of service which does not constitute a sale at retail, a sale at wholesale, or a retail service.

B. *Square footage tax.* Upon every person who leases, owns, occupies, or otherwise maintains an office, warehouse, or other place of business within the city for purposes of engaging in business activities in the city, the tax shall be measured by the number of square feet of warehouse business floor space or other business floor space for each office, warehouse, or other place of business leased, owned, occupied, or otherwise maintained within the city during the reporting period, calculated to the nearest square foot.

1. Subject to the reductions established in subsection (B)(6) of this section, the amount of the tax due shall be equal to the sum of the number of square feet of business warehouse floor space for each business warehouse leased, owned, occupied, or otherwise maintained within the city multiplied by the rate of three cents ($0.036) quarterly for each calendar year, and the number of square feet of other business floor space for each office or other place of business leased, owned, occupied, or otherwise maintained within the city multiplied by the rate of one cent ($0.012) quarterly for each calendar year.

2. For purposes of this section, business warehouse means a building or structure, or any part thereof, in which goods, wares,
merchandise, or commodities are received or stored, whether or not for compensation, in furtherance of engaging in business.

3. For purposes of this section, other business floor space means the floor space of an office or place of business, other than a business warehouse.

4. For purposes of this section, the square footage shall be computed by measuring to the inside finish of permanent outer building walls and shall include space used by columns and projections necessary to the building. Square footage shall not include stairs, elevator shafts, flues, pipe shafts, vertical ducts, heating or ventilation shafts, janitor closets, and electrical or utility closets.

5. Persons with more than one (1) office, warehouse, or other place of business within the city must include all business warehouse floor space and other business floor space for all locations within the city. When a person rents space to another person, the person occupying the rental space is responsible for the square footage business tax on that rental space only if the renter has exclusive right of possession in the space as against the landlord. Space rented for the storage of goods in a warehouse where no walls separate the goods, and where the exclusive right of possession in the space is not held by the person to whom the space is rented, shall be included in the warehouse business floor space of the person that operates the warehouse business, and not by the person renting the warehouse space.

6. If the square footage tax imposed in this subsection (B) is less than or equal to the gross receipts tax imposed in subsection (A) of this section, no square footage tax will be due; if the square footage tax imposed in this subsection (B) exceeds the gross receipts tax imposed in
subsection (A) of this section, the taxpayer shall also remit the excess over the gross receipts tax payable under subsection (A) of this section.

C.  **Gross receipts exemption/square footage threshold.**

1.  Any person whose gross proceeds of sales, gross income of the business, and value of products, including byproducts, as the case may be, from all activities conducted within the city during any quarter are equal to or less than sixty-two thousand five hundred dollars ($62,500) during that quarter shall be exempt from the gross receipts tax imposed in this chapter. The applicable tax rates shall only apply to amounts in excess of sixty-two thousand five hundred dollars ($62,500) during any quarter.

2.  The square footage tax imposed in subsection (B) of this section shall not apply to any person unless that person’s total floor area of business space within the city exceeds the following threshold:

   a.  Four thousand (4,000) taxable square feet of business warehouse space; or

   b.  Twelve thousand (12,000) taxable square feet of other business floor space.

This is a threshold and not an exemption. If the square footage tax applies, it applies to all business space leased, owned, occupied, or otherwise maintained by the taxpayer during the applicable reporting period.

D.  **Rules.** The director may promulgate rules and regulations regarding the manner, means, and method of calculating any tax imposed under this section.
SECTION 2. - Amendment: Section 3.28.130 of the Kent City Code, entitled “Limitation of revenue received,” is hereby amended as follows:

Sec. 3.28.130. Limitation of revenue received. One-half of the revenue received from the square footage tax shall be allocated to the city’s Capital Resources Fund. Remaining revenue received from the taxes imposed by this chapter shall first then be applied to the actual cost to staff and operate the business and occupation tax division, including one (1) information technology position dedicated to support that division, but not to exceed the amount budgeted for that division by the city council. After the above allocations, one hundred (100) percent of any remaining revenue shall be allocated to the design, construction, maintenance, improvement, operation, and repair of the city’s transportation infrastructure and appurtenant improvements including, without limitation, streets, curbs, gutters, sidewalks, bicycle and pedestrian lanes and paths, street trees, drainage, lighting, and signalization, up to a total annual allocation of four million seven hundred thousand dollars ($4,700,000). Until January 1, 2017, any remaining revenues received shall be applied to the capital improvement fund and allocated according to the direction of the city council; beginning January 1, 2017, one hundred (100) percent of the remaining revenue after payment of the actual cost to staff and operate the business and occupation tax division, including one (1) information technology position dedicated to support that division, shall be allocated to the design, construction, maintenance, improvement, operation, and repair of the city’s transportation infrastructure and appurtenant improvements including, without limitation, streets, curbs, gutters, sidewalks, bicycle and pedestrian lanes and paths, street trees, drainage, lighting, and signalization.
**SECTION 3.** - *Amendment Effective Date.* The amendments made by this ordinance, including the square footage tax increase and the reallocation of revenues, shall take effect on January 1, 2019.

**SECTION 4.** - *Severability.* If any one or more section, subsection, or sentence of this ordinance is 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 5.** - *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; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

**SECTION 6.** - *Effective Date.* This ordinance shall take effect and be in force thirty days from and after its passage, as provided by law.

![Signature and Dates]

**Approved as to form:**
STATE OF WASHINGTON, COUNTY OF KING
AFFIDAVIT OF PUBLICATION

PUBLIC NOTICE
Linda M Mills, being first duly sworn on oath that she is the Legal Advertising Representative of the

Kent Reporter

a weekly newspaper, which newspaper is a legal newspaper of general circulation and is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a weekly newspaper in King County, Washington. The Kent Reporter has been approved as a Legal Newspaper by order of the Superior Court of the State of Washington for King County.

The notice in the exact form annexed was published in regular issues of the Kent Reporter (and not in supplement form) which was regularly distributed to its subscribers during the below stated period. The annexed notice, a:

Public Notice

was published on December 1, 2017.

The full amount of the fee charged for said foregoing publication is the sum of $217.69.

Linda Mills
Legal Advertising Representative, Kent Reporter
Subscribed and sworn to me this 1st day of December, 2017.