



CITY OF KIRKLAND
PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
123 FIFTH AVENUE, KIRKLAND, WA 98033
425.587.3225 - www.kirklandwa.gov

To: Hearing Examiner

From: Craig Salzman, CCEO
Code Enforcement Officer

Date: March 8, 2012

Subject: HEARING FOR Eugene and Justin Ford, NOTICE OF CIVIL VIOLATION FOR VIOLATION OF THE HOME OCCUPATION REGULATIONS, KZC 115.65, LOCATED AT 11605 106th Ave NE Kirkland, WA; PLANNING DEPARTMENT FILE NO. COM12-00001

I. INTRODUCTION

City of Kirkland staff ("staff") offer this staff report with regard to the above-referenced Code Enforcement matter.

II. ISSUES PRESENTED

1. Are Eugene and Justin Ford ("respondents") responsible for conducting a Home Occupation in violation of the Kirkland Zoning Code (KZC) at the above address?
2. Are the respondents utilizing an oversized vehicle, a vehicle exceeding 10,000 lbs g.v.w., for a Home Occupation?
3. Are the respondents responsible for fines of \$200.00 per day after January 3, 2012, the compliance date set on the Notice of Civil Violation?

III. STATEMENT OF FACTS

In December, 2011 I pulled 2 signs from the right of way advertising firewood for sale along NE 116th St. The phone number listed was 425-891-5239. After removing the signs I called that number and advised the person answering that they could not post signs for a home based business. The person advised me that they were not a business and would not place any more signs. I noted that the phone number is the same number on the side of the truck registered to Justin Ford WA. Lic B86325D. In January the City received a complaint regarding the firewood business, including that the yard was full of wood, the truck was parked in the side yard, causing the grass to be turned into mud and severe ruts, beside the driveway and there was noise from a wood splitter.

On January 3, 2012 I hand delivered a Notice of Civil Violation (ex.1) to a Justin Ford at the site. He first denied that he was Justin; he also stated that this was not a business, it was for personal use, and he denied posting the craigslist ad listing his name and phone number that was posted on December 27, 2011. (ex.2) I had Officer Jamison of the Kirkland Police with me for the contact due to statements by the complainant that he was fearful of retaliation from the occupant of the house. I located another ad on craigslist posted on January 8, 2012, utilizing the same language as the prior ad with a contact of James at 206-446-7207. (ex.3) In my several visits to the site I have never observed smoke coming from the chimney of the residence.

The truck has been parked in the south side of the property, off of the driveway, for extended periods of time. There is a picture of the truck, loaded with wood, on the Notice. The truck was moved on January 9 and returned later in the day with no wood on it. The truck is WA. Lic. B86352D, a 1987 flatbed Chevrolet truck rated at 14,000 lbs. gvw with the name Custom Transport and the phone number 425-891-5239 on the side. Justin said this is his personal vehicle, for his own hauling, and not a commercial vehicle.

Mr. Ford requested an inspection to confirm compliance on February 1, 2012, I inspected the site, he has installed a fence across the side yard, concealing the back yard, and removed the truck from the site. I could still see that the back yard was full of stacks of firewood and told Mr. Ford that the issue was not the view of the wood, but the fact that he was selling firewood. He admitted that he had been selling firewood and said he would not be doing that anymore. I closed the case and cancelled the hearing.

On February 21, 2012 the gate to the back yard was left open and the same flatbed truck was parked in the driveway loaded with split firewood. The backyard was filled with a pile of tree rounds (Ex. 4 & 5). On February 24, 2012 the red flatbed truck was gone from the driveway. There was a track of mud approximately 200 feet long headed west on NE 116th St that started from 106th Ave NE. I reopened the case and prepared a new Notice of Civil Violation which I hand delivered to Justin Ford at his residence. He asked if the reason for the new citation was because he left the gate open. I told him that it was because he was selling firewood, which is prohibited as a home based occupation. I have continued to find craigslist postings of firewood for sale in Kirkland, listing James as the contact, the same postings that appeared all throughout January 2012, attached.

The City does not have a business license for this address, for Justin Ford, or for Custom Transport. I was unable to locate any business license activity for a Justin Ford with the State Department of Revenue.

IV. LEGAL ANALYSIS

The signs advertising firewood for sale placed on NE 116th St near 106th Ave NE, and the ads placed on craigslist advertising wood for sale giving the name and phone number for Justin show that this was not firewood for personal use as Mr. Ford claims. The fact that the flatbed truck was loaded with firewood on January 9 and again on February 21 then later was parked with no firewood on it demonstrates that the wood was moved to another location. There is still a large pile of unsplit wood in the sideyard of the residence as of January 10, and on February 21, 2012. The KZC requires a City business license and prohibits outdoor storage for a Home Occupation. This business does not have a City business license and has obvious outdoor storage of firewood.

The registration for the 1987 Chevrolet flatbed truck shows the vehicle has a load limit of 14,000 lbs. The KZC at 115.65.4.h states:

- h. Operates no more than one (1) vehicle, van, truck or similar vehicle. The vehicle shall not exceed any of the following:
 - 1) A gross vehicle weight of 10,000 pounds;
 - 2) A height of nine (9) feet; and/or
 - 3) A length of 22 feet;

The front yard to the south of the driveway had the flatbed truck parked on it for several weeks prior to the firewood being brought in. The picture attached to the Notice clearly shows that the truck is parked off of the driveway and in the lawn which is a required yard.

When I delivered the Notice to the respondent at the above address I advised him that this was an illegal business and needed to be stopped. I told him that he had until January 17, 2012 to correct the violation by removing all wood at the site, stopping sales of firewood, and park all vehicles on the driveway. The sale of firewood seems to be continuing as of February 21, 2012. .

IV. CONCLUSION

Based upon the ads placed advertising the firewood for sale, the equipment at the site including a hydraulic wood splitter and the flatbed truck, and the stacks of firewood, it is apparent that there is a firewood sales operation being conducted at this address. Eugene Ford is the owner of record of the property; Justin Ford is the occupant and business operator. The pictures demonstrate that the business is continuing to sell and deliver wood. Staff asks that the respondents be found liable for the violation and cease all sales of firewood from the residence. Also that all firewood currently, other than a reasonable amount for personal use, stored outside of the house in the side and rear yard of the premises be required to be removed from the property in a reasonable amount of time. Staff asks that daily fines of \$200.00 per day be assessed to the respondents from January 3, 2012 until the violation is certified as corrected by staff. As the respondent has once requested an inspection and assured he was in compliance staff requests that the Hearing Examiner retain jurisdiction to ensure compliance, and require a full inspection prior to closing the case and setting final penalties

EXHIBITS:

A Staff Report

Photos

Craigslist ads

Vehicle registration

Notice of Civil Violation

Affidavit of Service



CITY OF KIRKLAND
 Planning and Community Development
 Code Enforcement
 123 5th Avenue, Kirkland, WA 98033
 (425)587-3225 – Fax: (425)587-3232
www.kirklandwa.gov

NOTICE OF CIVIL VIOLATION
 (Kirkland Municipal Code 1.12.040)

Date: January 3, 2012 Property Owner Information Name: Eugene and Justin Ford Address: 11605 106 th Ave NE City, State, Zip: Kirkland, WA 98033	Case Number: COM12-00001 ENF 12-001 Violation Information Site Address: 11605 106 th Ave NE City, State, Zip: Kirkland, WA 98033 Parcel #: 312720-0042
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Code Provision(s) Violated:	KZC 115.65 and 115.115.5
Description of Violation:	Conducting a firewood sale, including having firewood stored in the yard, operating an oversized vehicle for a home based business, and parking a vehicle in the required front yard off of the driveway.
Inspection Dates:	January 2, 2012
Date(s) of Violation:	January 2, 2012 and continuing until corrected
Person(s) Responsible For:	Eugene and Justin Ford
Request for Voluntary Compliance:	January 2, 2012
Corrective Action and Compliance Date:	January 19, 2012
Hearing Date:	January 19, 2012

HEARING NOTICE: On January 19, 2012 at 9:00 AM the Kirkland Hearing Examiner shall hold a hearing in City Council Chambers, 123 5th Avenue, Kirkland, WA, 98033, 2nd floor, Kirkland City Hall relating to the above issued Notice of Civil Violation. If the required corrective action is completed AND written approval is obtained from the issuing party at least 48 hours prior to the hearing, the hearing shall be cancelled and no monetary penalty assessed. If you choose NOT to complete the required corrective action by that time, the hearing shall continue as scheduled.

HEARING EXAMINER HEARING: At the hearing, staff may request the Examiner to issue an order assessing the monetary penalties in the amounts described below. All costs and expenses of abatement incurred by the City pursuant to KMC 1.12.060(D) and monetary penalties in the amount per day for each violation as specified in KMC 1.12.040(E) may be assessed against the person responsible for the civil violation as listed above.

- First violation..... \$100.00
- Second violation \$200.00
- Third violation \$300.00
- Additional violation in excess of three \$500.00

Payment of a monetary penalty pursuant to Chapter KMC 1.12.040 does not relieve the person to whom the Notice of Civil Violation was issued of the continued duty to correct the violation.

ISSUED BY: Craig Salzman, CCEO, Code Enforcement Officer
 Phone: (425)587-3289 - Email: csalzman@kirklandwa.gov

METHOD OF SERVICE:

- Hand Delivered
- Postal Mail
- Posted at Subject Property Site





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NOTICE OF CIVIL VIOLATION
 (Kirkland Municipal Code 1.12.040)

Date: February 23, 2012 Property Owner Information Name: Eugene and Justin Ford Address: 11605 106 th Ave NE City, State, Zip: Kirkland, WA 98033	Case Number: COM12-00001 ENF 12-001 Violation Information Site Address: 11605 106 th Ave NE City, State, Zip: Kirkland, WA 98033 Parcel #: 312720-0042
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Code Provision(s) Violated:	KZC 115.65
Description of Violation:	Conducting a firewood sale as a home based business; without a City Business License, including having firewood stored in the yard, operating an oversized vehicle for a home based business.
Inspection Dates:	February 21, 2012
Date(s) of Violation:	January 2, 2012 and continuing until corrected
Person(s) Responsible For:	Eugene and Justin Ford
Request for Voluntary Compliance:	January 2, 2012
Corrective Action and Compliance Date:	March 1, 2012 Remove all firewood, other than that amount reasonable for personal use, from the property, do not park vehicles over 10,000 gvw at the site.
Hearing Date:	March 15, 2012

HEARING NOTICE: On March 15, 2012 at 9:00 AM the Kirkland Hearing Examiner shall hold a hearing in City Council Chambers, 123 5th Avenue, Kirkland, WA, 98033, 2nd floor, Kirkland City Hall relating to the above issued Notice of Civil Violation. If the required corrective action is completed AND written approval is obtained from the issuing party at least 48 hours prior to the hearing, the hearing shall be cancelled and no monetary penalty assessed. If you choose NOT to complete the required corrective action by that time, the hearing shall continue as scheduled.

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 Phone: (425)587-3289 - Email: csalzman@kirklandwa.gov

METHOD OF SERVICE:

- Hand Delivered
- Postal Mail
- Posted at Subject Property Site



[seattle craigslist](#) > [eastside](#) > [for sale / wanted](#) > [email this posting to a friend](#)
[general for sale](#)

Avoid scams and fraud by dealing locally! Beware any deal involving Western Union, Moneygram, wire transfer, cashier check, money order, shipping, escrow, or any promise of transaction protection/certification/guarantee. [More info](#)

please flag with care: [?]

[miscategorized](#)

[prohibited](#)

[spam/overpost](#)

[best of craigslist](#)

Split Firewood For Sale (free delivery in local area) - \$200 (Kenmore/ Kirkland)

Date: 2012-01-08, 10:21AM PST
Reply to: see below [Errors when replying to ads?]

Firewood for sale, split 16"x 4" average size. We have a mix of 1/4 cedar and 3/4 mix of cotton, willow, poplar for \$200 a cord (4'x 4'x 8'). We also have half cords of just cedar or just fir (or cedar and fir mix) for \$150, or half cords of maple for \$250. We deliver for free in the Kenmore Kirkland area. Call James at 206-446-7207. It's getting cold and the wood is going fast, so get it while it lasts!

- Location: Kenmore/ Kirkland
- it's NOT ok to contact this poster with services or other commercial interests

PostingID: 2783153959

No contact info?
if the poster didn't include a phone number, email, or other contact info, craigslist can notify them via email.

[seattle craigslist](#) > [eastside](#) > [for sale / wanted](#) > [general for sale](#)

[email this posting to a friend](#)

Avoid scams and fraud by dealing locally! Beware any deal involving Western Union, Moneygram, wire transfer, cashier check, money order, shipping, escrow, or any promise of transaction protection/certification/guarantee. [More info](#)

please flag with care: [?]

[miscategorized](#)

[prohibited](#)

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[best of craigslist](#)

Split Firewood, Free Delivery (to local area) - \$200 (Kirkland)

Date: 2011-12-27, 7:47AM PST

Reply to: sale-x2c6m-2770601631@craigslist.org [Errors when replying to ads?]

Split firewood (aprox. 16"x4") for sale with free delivery to the local area. This is a mixture of 1/4 cedar fully seasoned and 3/4 cotten and fir 5 months dried. \$200 a cord (4'x4'x8') \$125 for a half a cord(4'x4'x4') call for details 425-891-5239 (Justin) It's getting cold and the wood is going fast, so hurry!

- Location: Kirkland
- it's NOT ok to contact this poster with services or other commercial interests

PostingID: 2770601631

.NCDOLDB6162KI880.L..WA0170880.LIC/B86325D

VIN/1GBJR34J1HJ168156

.VYR/1987.VMA/CHEV .VMO/FB ,014000,10-19-2012

EXP DATE/10-19-2012

FORD,JUSTIN DEAN

7223 NE 175TH ST

UNIT 102

KENMORE,WA,98028

LEGAL OWNER SAME AS ABOVE

TITLE/ 10-19-2009 0929231313

PIC.NAME1 FORD*JD173LH

TAB# IS E109198 12

PREV TAB W579859 11

PLATE ISSUE DATE/ 08-2007

COM SAFETY ENF FEE PAID

FIRST COLOR IS RED

SECOND COLOR IS NO COLOR

□

11605

CITY OF KIRKLAND
 Planning and Community Development
 207 West Street, 4th Floor
 Kirkland, WA 98033
 (206) 835-3300

**NOTICE OF CIVIL
 VIOLATION**
 www.kirklandwa.gov

Case Number: 2012-00000-000000
 Property Owner Information: 11605 1st Avenue, Kirkland, WA 98033
 Case Number: 2012-00000-000000
 Date of Violation: 08/28/2012

VIOLATION INFORMATION

Section	Code	Description
11.02.010	11.02.010	Use of property for a purpose not permitted by the zoning ordinance.
11.02.020	11.02.020	Use of property for a purpose not permitted by the zoning ordinance.
11.02.030	11.02.030	Use of property for a purpose not permitted by the zoning ordinance.
11.02.040	11.02.040	Use of property for a purpose not permitted by the zoning ordinance.
11.02.050	11.02.050	Use of property for a purpose not permitted by the zoning ordinance.
11.02.060	11.02.060	Use of property for a purpose not permitted by the zoning ordinance.
11.02.070	11.02.070	Use of property for a purpose not permitted by the zoning ordinance.
11.02.080	11.02.080	Use of property for a purpose not permitted by the zoning ordinance.
11.02.090	11.02.090	Use of property for a purpose not permitted by the zoning ordinance.
11.02.100	11.02.100	Use of property for a purpose not permitted by the zoning ordinance.
11.02.110	11.02.110	Use of property for a purpose not permitted by the zoning ordinance.
11.02.120	11.02.120	Use of property for a purpose not permitted by the zoning ordinance.
11.02.130	11.02.130	Use of property for a purpose not permitted by the zoning ordinance.
11.02.140	11.02.140	Use of property for a purpose not permitted by the zoning ordinance.
11.02.150	11.02.150	Use of property for a purpose not permitted by the zoning ordinance.
11.02.160	11.02.160	Use of property for a purpose not permitted by the zoning ordinance.
11.02.170	11.02.170	Use of property for a purpose not permitted by the zoning ordinance.
11.02.180	11.02.180	Use of property for a purpose not permitted by the zoning ordinance.
11.02.190	11.02.190	Use of property for a purpose not permitted by the zoning ordinance.
11.02.200	11.02.200	Use of property for a purpose not permitted by the zoning ordinance.

VIOLATION NOTICE: On August 28, 2012, the City of Kirkland Planning and Community Development staff conducted a site visit to the property located at 11605 1st Avenue, WA 98033. The staff observed the use of the property for a purpose not permitted by the zoning ordinance. The use of the property for a purpose not permitted by the zoning ordinance is a violation of the zoning ordinance. The City of Kirkland is hereby notifying you of this violation and is providing you with the opportunity to correct the violation. If you do not correct the violation within the time period specified in this notice, the City of Kirkland may take enforcement action against you.

VIOLATION INFORMATION: A violation of the zoning ordinance has been identified at the property located at 11605 1st Avenue, WA 98033. The violation is the use of the property for a purpose not permitted by the zoning ordinance. The City of Kirkland is hereby notifying you of this violation and is providing you with the opportunity to correct the violation. If you do not correct the violation within the time period specified in this notice, the City of Kirkland may take enforcement action against you.

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Exhibit 14