AN ORDINANCE relating to the Fire Department; renumbering sections, of Chapter 2.26 of the Kent City Code, adding sections to Chapter 2.26 of the Kent City Code designating the Kent Fire Department as the Hazardous Materials Incident Command Agency within its respective boundaries, and authorizing the Fire Department to accept mutual assistance between the City and persons with equipment, personnel and expertise in the handling of hazardous materials incidents; establishing limitations on liability for those persons responding to hazardous material incidents.

WHEREAS, The City of Kent is required by Chapter 4.24 RCW to designate a Hazardous Materials Incident Command Agency; and

WHEREAS, designated Hazardous Materials Incident Command Agencies are authorized and encouraged, prior to a hazardous materials incident, to enter individually or jointly into written hazardous materials emergency assistance agreements with any person whose knowledge or expertise is deemed potentially useful.

NOW, THEREFORE,

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

Section 1. Chapter 2.26 of the Kent City Code is amended as follows:

"2.26.040. EXISTENCE RECOGNIZED. The City of Kent recognizes the existence of the Kent Fire Department and declares that it shall be maintained in perpetuity as a department of the City Government of the City of Kent.

2.26.080. L.E.O.F.F. RETIREMENT SYSTEM. The City of Kent hereby recognizes the Washington Law Enforcement Officer's and Fire Fighters' Retirement System, established in Chapter 41.26 of the Revised Code of Washington, as it applies to the Kent Fire and Police Departments."

Section 2. New sections 2.26.100, 2.26.110, 2.26.120 and 2.26.130 are added to the Kent City Code, as follows:

"2.26.100. HAZARDOUS MATERIALS COMMAND AGENCY. The Kent Fire Department is designated as the Hazardous Materials Incident Command Agency for all hazardous materials incidents within the corporate limits of the City of Kent."
2.26.110. ASSISTANCE AGREEMENTS AUTHORIZED — LIABILITY. The Fire Chief is authorized to enter into agreements with persons, agencies, and/or corporations who, may provide assistance with respect to a hazardous materials incident. In accordance with the provisions Chapter 4.24 RCW such persons, agencies, and/or corporations are not liable for civil damages resulting from any act or omission in the rendering of such care, assistance, or advice, other than acts or omissions constituting gross negligence or wilful or wanton misconduct, provided:

(1) The Kent Fire Department and the person whose assistance is requested have entered into a written hazardous materials assistance agreement prior to the incident which incorporates the terms of KCC 2.26.120, except as specified in KCC 2.26.130.

(2) The request for assistance comes from the Kent Fire Department.

2.26.120. ASSISTANCE AGREEMENTS — TERMS.

(1) Hazardous materials emergency assistance agreements which are executed prior to a hazardous materials incident shall include the following terms and conditions:

(a) The person requested to assist shall not be obligated to assist;

(b) The person requested to assist may act only under direction of the incident commander or his representative;

(c) The person requested to assist may withdraw his assistance if he deems the actions or directions of the incident commander to be contrary to accepted hazardous materials response practices;

(d) The person requested to assist shall not be a public employee acting in his official capacity within the boundaries of his political subdivision;

(f) Any person responsible for causing the hazardous materials incident shall not be covered by the liability standard defined in KCC 2.26.110.

(2) It is the responsibility of both parties to ensure that mutually agreeable procedures are established when assistance is requested, for recording the name of the person whose assistance is requested, and the time and date of the request, which records shall be retained for three years by the Kent Fire
Department. A copy of the official incident command agency designation shall be a part of the assistance agreement specified in this section.

"2.26.130. ASSISTANCE AGREEMENTS - NOTIFICATION AT INCIDENT.

(1) The Chief of the Fire Department or his representative may enter into verbal hazardous materials emergency assistance agreements at the scene of an incident where execution of a written agreement prior to the incident is not possible. A notification of the terms of this section shall be presented at the scene by the incident commander or his representative to the person whose assistance is requested. The incident commander and the person whose assistance is requested shall both sign the notification which appears in subsection (2) of this section, indicating the date and time of signature. If a requesting agency deliberately misrepresents individual or agency status, that agency shall assume full liability for any damages resulting from the actions of the person whose assistance is requested, other than those damages resulting from gross negligence or wilful or wanton misconduct.

(2) The notification required by subsection (1) of this section shall be as follows:

NOTIFICATION OF "GOOD SAMARITAN" LAW

You have been requested to provide emergency assistance by a representative of a designated hazardous materials incident command agency. To encourage your assistance, the Washington State Legislature has passed "Good Samaritan" Legislation (chapter 4.24 RCW, part) to protect you from potential liability. The law reads, in part:

"Any person who, in good faith, renders emergency care, assistance, or advice with respect to a hazardous materials incident is not liable for civil damages resulting from any act or omission in the rendering of such care, assistance, or advice, other than acts or omissions constituting gross negligence or wilful or wanton misconduct."

The law requires that you be advised of certain conditions to ensure your protection:
1. You are not obligated to assist and you may withdraw your assistance at any time.
2. You cannot profit from assisting.
3. You must agree to act under the direction of the incident commander.
4. You are not covered by this law if you caused the initial accident or if you are a public employee doing your official duty.
I have read and understand the above.

(Name) ______________________________________________

Date __________________________ Time ________________

I am a representative of a designated hazardous materials incident command agency and I am authorized to make this request for assistance.

(Name) ______________________________________________

(Agency) ____________________________________________

Date __________________________ Time ________________

Section 3. EFFECTIVE DATE. This ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication as provided by law.

ISABEL HOGAN, MAYOR

ATTEST:

MARIE JENSEN, CITY CLERK

APPROVED AS TO FORM:

P. STEPHEN DIJULIO, CITY ATTORNEY
PASSED the ___ day of Nov., 1982.
APPROVED the ___ day of Nov., 1982.
PUBLISHED the ___ day of Nov., 1982.

I hereby certify that this is a true copy of Ordinance No. 2372, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

[Signature]
MARIE JENSEN, CITY CLERK