AN ORDINANCE of the City Council of the City of Kent, Washington, amending Chapter 9.02, the City Penal Code, by adding a new section relating to pedestrian interference in public places and by adding new provisions relating to public disturbances, and further amending Kent City Code Chapter 8.05, Noise Control, by deleting certain criminal noise control provisions relating to public disturbances.

WHEREAS, in recent years the level of begging (panhandling) has increased in the core area of the City of Kent; and

WHEREAS, it is necessary for the protection of the health, peace, and welfare of the citizens of Kent to restrict the level of such panhandling so as not to intimidate persons or unduly interfere with persons; and

WHEREAS, excessive noise is a form of pollution which has direct and harmful effects upon the health and welfare of persons exposed to such sound, lowers the value of impacted public places.
properties, and generally adversely affects the livability, peace
and comfort of the impacted neighborhood and the City as a whole;
and

WHEREAS, the City Council seeks to simplify and enhance
the enforcement of criminal violations for excessive noise which
constitute a public disturbance; NOW, THEREFORE,

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

Section 1. There is hereby added to Chapter 9.02 of the
Kent City Code a new section, 9.02.38, as follows:

Sec. 9.02.38. Pedestrian Interference.
A. A person is guilty of pedestrian interference if,
in a public place, he or she intentionally
1. obstructs pedestrian or vehicular traffic; or
2. aggressively begs.
B. The following definitions apply in this Section.
1. "Aggressively begs" means to beg and engage in
conduct that would likely intimidate a reasonable person,
including touching, following, persistently begging after being
refused, using violent or threatening language or gestures, or
taking similar actions for the purpose of inducing another person
into giving money or goods.
2. "Beg" means to ask for money or goods as a
charity, whether by words, bodily gestures, signs or other means.
3. "Obstruct pedestrian or vehicular traffic" means to walk, stand, sit, lie, grasp a person, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact. Acts authorized as an exercise of one's constitutional right to picket or legally protest shall not constitute obstruction of pedestrian or vehicular traffic.

4. "Public place" means an area generally visible to public view and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks, and streets open to the general public including places that serve food or drink or provide entertainment, in the doorways and entrances to buildings or dwellings and the grounds enclosing them.

Section 2. Section 9.02.36 of the Kent City Code and ordinances pertaining thereto are hereby amended to read as follows:

Sec. 9.02.36. Disorderly Conduct.

A person is guilty of disorderly conduct if he:
1. Uses abusive language and thereby intentionally creates a risk of assault;
2. Intentionally disrupts any lawful assembly or meeting of persons without lawful authority; or
3. Causes a public noise disturbance or is in possession and control of property on which a public noise disturbance occurs. The following sounds are determined to be public noise disturbances:
A. The frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law.

B. The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine within a residential district, so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property.

C. Yelling, shouting, hooting, whistling or singing on or near the public streets, particularly between the hours of eleven p.m. and seven a.m. or at any time and place so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property.

D. The creation of frequent, repetitive or continuous sounds which emanate from any building, structure, apartment, condominium, or yard adjacent thereto which unreasonably interferes with the peace, comfort, and repose of owners or possessors of real property such as sounds from musical instruments, audio sound systems, band sessions, or social gatherings.

E. The creating of frequent, repetitive or continuous sounds made by any animal, such as barking or howling, except that such sounds made in animal shelters, commercial kennels, veterinary hospitals, pet shops or pet kennels licensed under and in compliance with Chapter 8.03 of the Kent City Code shall be exempt from this subsection.
F. Sound from motor vehicle audio sound systems such as tape players, radios, and compact disc players, operated at a volume so as to be audible greater than fifty feet from the vehicle itself.

G. Sound from portable audio equipment, such as tape players, radios, and compact disc players, operated at a volume so as to be audible greater than fifty feet from the source, and if not operated upon the property of the operator.

H. The foregoing provision shall not apply to regularly scheduled events at parks, such as public address systems for baseball games or park concerts.

I. The creation of frequent, repetitive or continuous sounds made in connection with outdoor construction or the movement of construction related materials, including noise made by devices capable of producing sound by either striking or cutting objects, such as hammers, saws or other equipment with internal combustion engines; provided, however, such sounds shall be exempt from the provisions of this code under the following circumstances:

1. during the hours of 7:00 a.m. through 8:00 p.m., Monday through Sunday; or
2. in commercial areas not adjacent to residential areas.

Provided that the foregoing enumeration of acts and noises shall not be construed as excluding other acts and noises which offend the public peace.

Disorderly conduct is a misdemeanor.
Section 3. Section 8.05.020 of the Kent City Code is amended to read as follows:

Sec. 8.05.020. Scope.
Except as provided in Kent City Code Section 9.02.36 "Disorderly Conduct", this chapter shall apply to the control of all sound originating from sources located within the limits of the city, including, but not limited to, commercial and industrial noise.

Section 4. Section 8.05.050 of the Kent City Code is amended to read as follows:

Sec. 8.05.050. Noise control office (NCO)--Program development.
The building department shall be designated the noise control office for coordination of the sound level measurement aspects and enforcement of all sections this chapter (with the exception of sections 8.05.260 and 8.05.270), and for the general purpose of sound and vibration abatement and control.

Section 5. Section 8.05.160 of the Kent City Code is amended to read as follows:

Sec. 8.05.160. Exempted sources.
No sound source specifically exempted from a maximum permissible sound level or permitted under this chapter shall be a public nuisance noise or public disturbance noise, as provided in Kent City Code section (8.05.260 therein) 9.02.36, insofar as the particular source is exempted.

Section 6. Section 8.05.190 of the Kent City Code is amended to read as follows:
Sec. 8.05.190. Enforcement.

A. Unless provided otherwise by this chapter, the building department noise control office shall have the responsibility for enforcing this chapter. The specific provisions of this chapter which describe the noise control office's methods for obtaining compliance with the noise standards set forth herein, such as sections 8.05.180 and 8.05.200 through 8.05.250, are related to the civil enforcement process and shall not be applicable to any criminal enforcement action initiated by the chief of police.

B. Where appropriate and necessary for the enforcement of this chapter, the noise control office may request the assistance of the noise control office of the Seattle-King County health department and the city attorney.

Section 7. Section 8.05.260 is deleted from the Kent City Code as follows:

Sec. 8.05.260. Public-disturbance-noises.
It is unlawful for any person to cause or make, or for any person in possession of property to allow to originate from the property, unreasonable noise which disturbs another, and to refuse or intentionally fail to cease the unreasonable noise when ordered to do so by a police officer. Unreasonable noise shall include the following sounds or combination of sounds:

1. Loud, raucous, and frequent, repetitive, or continuous sounds made by the amplified or unamplified human
voice. Exempt from this prohibition are licensed vendors whose sole method of selling is from a moving vehicle, such as ice cream vendors and vegetable vendors. The content of speech shall not be considered against any person in determining a violation of this section.

2. Loud, raucous, and frequent, repetitive or continuous sounds made by any animal, except that such sounds made in animal shelters, commercial kennels, veterinary hospitals, pet shops or pet kennels licensed under and in compliance with chapter 8.03 of the Code shall be exempt from this subsection. Notwithstanding any other provision of this chapter, if the owner or other person having custody of the animal cannot, with reasonable inquiry, be located by the investigating officer or if the animal is a repeat violator of this subsection, the animal shall be impounded by the pound master or animal control officer, in the manner provided in section 8.03.310, subject to the redemption procedures therein.

3. Loud, raucous, and frequent, repetitive or continuous sounds made in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle, or internal combustion engine.

4. Loud and raucous, frequent, repetitive or continuous sounds made within the vicinity of any school or other institution of learning, hospital, nursing home, court or other designated area where exceptional quiet is necessary, while the same are in use, provided conspicuous signs are displayed in
adjacent or contiguous streets, including that the same is a quiet zone.

5. Loud and raucous, frequent, repetitive or continuous sounds created by use of the following:
   a. Musical instrument, or other device capable of producing sound when struck by an object;
   b. Whistle; or
   c. Sound amplifier or other device capable of producing, amplifying, or reproducing sound.

This provision does not include such noise emitted from officially sanctioned public events.

6. Loud, raucous, and frequent, repetitive, or continuous sounds made by any horn or siren attached to a motor vehicle or watercraft, except such sounds that are made to warn of danger or that are specifically permitted or required by law.

7. Loud, raucous and frequent, repetitive or continuous sounds made in connection with outdoor construction or the building of structures, including noise made by devices capable of producing sound by either striking or cutting objects, such as hammers, saws or other equipment with internal combustion engines; provided, however, such sounds shall be exempt from the provisions of this Code during the hours of 7:00 a.m. through 8:00 p.m., Monday through Sunday.

Section 8. Section 8.05.270 is deleted from the Kent City Code as follows:
(Sec. 8.05.270. Public-disturbance-noise-from-portable, or motor-vehicle audio equipment.

A. While in class A or class B EDNA areas or park areas, residential or commercial zones, or any area where residences, schools, human service facilities or commercial establishments are in obvious proximity to the source of the sound, it is unlawful for any person to cause, make or allow to be made from audio equipment under such person's control or ownership the following:

1. Sound from a motor vehicle audio system, such as a radio, tape player or compact disc player, which is operated at such a volume that it could be clearly heard by a person of normal hearing at a distance of seventy-five (75) feet or more from the vehicle itself, or

2. Sound from portable audio equipment, such as a radio, tape player or compact disc player, which is operated at such a volume that it could be clearly heard by a person of normal hearing at a distance of seventy-five (75) feet or more from the source of the sound.

B. This section shall not apply to persons operating portable audio equipment upon their own premises, such as an owner or tenant, or to persons operating such equipment within a public park pursuant to an event under a permit issued under section 4.05.010, in which event other provisions of this chapter shall apply.

C. The content of the sound will not be considered in determining a violation of this section.)

Section 9. Section 8.05.280 of the Kent City Code is amended to read as follows:

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Sec. 8.05.280. Punishment.

((A. Conduct made unlawful under sections 8.05.260 and 8.05.270 of this chapter shall constitute a misdemeanor as defined in section 1.01.040 of this Code.))

A. ((B-)) Conduct made unlawful under sections 8.05.090 through 8.05.250 of this chapter shall subject the violator to a civil fine of two hundred fifty dollars ($250.00). This fine shall be cumulative, and each day such offense continues shall constitute a separate violation.

B. ((C-)) Five (5) separate subsequent offenses by the same violator of the provisions contained in sections 8.05.090 through 8.05.250 within a five-year period of time shall also constitute a misdemeanor, and may be punished by the criminal penalties described in section 1.01.140 and/or a penalty in addition to the civil fine of two hundred fifty dollars ($250.00) for the initial act of violation, and two hundred fifty dollars ($250.00) per day thereafter until the violation is discontinued.

C. ((D-)) Nothing contained in this chapter shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 10. Severability. If any one or more sections, subsections or sentences of this chapter are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this chapter and the same shall remain in full force and effect.
Section 11. Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage, approval and publication as provided by law.

DAN KELLEHER, MAYOR

ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

ROGER A. LUBOVICH, CITY ATTORNEY

PASSED the 7 day of September, 1993.
APPROVED the 8 day of September, 1993.
PUBLISHED the 10 day of September, 1993.

I hereby certify that this is a true copy of Ordinance No. 3133, 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

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