ORDINANCE NO. 3355

AN ORDINANCE of the City Council of the City of Kent, Washington, to be submitted to the voters of the City by two separate ballot propositions for final passage and approval, the first proposition repealing the City's current curfew law set forth in Chapter 9.07 of the Kent City Code, entitled "Juvenile Safety and Family Reconciliation" passed by the voters pursuant to an initiative petition; and, if the repeal is approved by the voters, the second proposition adding a new chapter to Title 9 of the Kent City Code entitled "Curfew and Parental Responsibility for Juveniles;" which establishes a new curfew law for juveniles, defines duties of parents or others in care of juveniles, establishes certain exemptions and provides for civil penalties.

WHEREAS, the City Council finds that due to rapid growth and other factors, the City is facing increasing concerns over the public safety of its citizens caused by juvenile crime and delinquency which threatens peaceful citizens, residents, visitors, and juveniles themselves, and further determines that this criminal activity, both individual and collectively, presents a clear and present danger to the citizenry, to the juveniles, and to the public order and safety; and

WHEREAS, calls for service to the Kent Police Department have risen from approximately 64,000 calls in 1995 to approximately 74,000 calls in 1996; and
WHEREAS, the economic cost of crime in the City of Kent continues to drain existing resources and that the effect on victims, both economic and psychological, is traumatic and tragic; and

WHEREAS, the City Council finds that fighting crime effectively requires a multi-faceted effort, in part focusing on those age groups likely to commit crimes and engage in acts of delinquency; and

WHEREAS, juveniles in the City of Kent have themselves become victims of crime and violence, and that violent crimes against juveniles in the City of Kent have increased over the last several years; and

WHEREAS, it is appropriate to take measures in order to protect those juveniles who are not subject to adequate parental control from harm to themselves, others, or the property of others based upon certain proscribed conduct, and to foster better parental responsibility among the parents and guardians of juveniles found within the City of Kent to achieve better protection of the community and the juveniles; and

WHEREAS, juveniles who are not adequately supervised by their parents and/or guardians have become engaged in criminal activity at certain times within the City. Therefore, it is the intent of this chapter to impose measures to assist parents and/or guardians or others responsible for juveniles to control and to protect their children and the community; and

WHEREAS, from January 1, 1997 to June 30, 1997, crimes involving juveniles between 10:00 p.m. and 6:00 a.m. include fifty (50%) of the juvenile assaults reported; ninety percent (90%) of the minor in possession incidents reported, many of those involving malicious mischief and possession of drugs; seventy-one (71%) of the shoplifting...
of beer incidents reported and fifty percent (50%) of automobile thefts or attempted thefts reported; and

WHEREAS, there is a crime problem with juveniles throughout the City during late evening and early morning hours, including crimes of violence and drug and alcohol-related activity and thefts, and that since this problem cannot be identified to specific areas of the City, to reasonably and adequately enforce a curfew ordinance, a City-wide curfew is appropriate; and

WHEREAS, the combination of juveniles and alcohol and drug-related criminal activity leads to public safety problems, including increased assaults and incidents involving disorderly conduct and instances of the sale and delivery of controlled substances; and

WHEREAS, this ordinance is enacted in recognition of the peculiar vulnerability of juveniles, their frequent inability to make critical decisions in an informed, mature manner, and the importance of the parental role in child rearing; and

WHEREAS, it is the intent of the City Council to create and implement a juvenile program to reduce juvenile crime and the direct and indirect consequences thereof; to substantially reduce, if not eradicate, acts of crime and delinquency committed by juveniles and to provide for the care, safety, and protection of law abiding juveniles and other citizens, residents, and visitors; to reduce injuries to juveniles as victims while promoting juvenile safety and well being; to provide additional options for dealing with gang problems; and to reduce juvenile peer pressure to stay out late; and

WHEREAS, it is in the community's best interest to establish laws to assist in these goals for the protection of juveniles from this type of criminal activity, as well as
to alleviate the instances of criminal activity caused by unsupervised juveniles and establishing a curfew that will assist in this effort; and

WHEREAS, the Washington State Legislature passed Engrossed Second Substitute House Bill 2319 during the 1994 legislative session adding a new section to Chapter 35A.11 RCW providing that municipalities have the authority to enact an ordinance for the purpose of preserving the public safety or reducing acts of violence by or against juveniles that are occurring at such rates as to be beyond the capacity of the police to assure public safety, establishing times and conditions under which juveniles may be present on the public streets, in the public parks, or in any other public place during specified hours, and further amending Chapter 13.32A RCW relating to curfews;

WHEREAS, as a result of concerns for juvenile crime and juvenile safety in the City of Kent, an initiative petition was circulated by the citizens of the City of Kent to establish a curfew within the City; and

WHEREAS, on February 7, 1995, the City Council heard testimony on Initiative Petition 101 and moved to submit the initiative petition to establish a curfew to a special election; and

WHEREAS, during a special election held in April 1995, the citizens of the City of Kent passed Initiative Petition 101 establishing a curfew for the City of Kent seventy percent (70%) of the voters supporting the measure; and

WHEREAS, under the current curfew ordinance, Kent police officers have had numerous contacts with juveniles in the late evening and early morning hours and generally have experienced a positive response with juvenile compliance with the curfew; and
WHEREAS, recent case law involving curfews has raised concerns about the enforceability of certain provisions of Initiative Petition 101, which concerns were discussed by the City Council during their regular meeting on June 17, 1997; and

WHEREAS, the City Council directed that a new curfew ordinance be prepared to establish a new curfew law for the City; and

WHEREAS, in light of these issues and events and after having held a hearing on the proposed curfew on July 1, 1997, and after further consideration on the matter, the City Council believes it is in the best interest of the citizens of the City of Kent to submit to the electors of the City for consideration the option to repeal the existing curfew law (Initiative Petition 101) in its entirety and, if repealed, the option to enact a new curfew law, entitled "Curfew and Parental Responsibility for Juveniles." NOW THEREFORE,

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

SECTION 1. Subject to the prior approval by the electors of the City of Kent, Chapter 9.07 of the Kent City Code entitled "Juvenile Safety and Family Reconciliation" is hereby repealed in its entirety.

SECTION 2. Subject to the prior approval by the electors of the City of Kent and also subject to the passage of the repealer in Section 1 of this ordinance, there is hereby added a new chapter, Chapter 9.09, entitled "Curfew and Parental Responsibility for Juveniles," to read as follows:
CHAPTER 9.09. CURFEW AND PARENTAL RESPONSIBILITY FOR JUVENILES.

Sec. 9.09.010. Purpose. The purpose of this chapter is to:

A. protect juveniles and other citizens, residents and visitors of the City of Kent from the dangers of crimes which occur on sidewalks, streets, and public places during the late night and early morning hours;

B. decrease the amount of criminal activity engaged in by juveniles;

C. promote and enhance parental control over juveniles;

D. adopt and implement policies relating to juveniles that would minimize impacts on juveniles engaging in and traveling to or from a lawful activity or event; and

E. preserve the public safety and to reduce acts of violence by or against juveniles that are occurring in Kent at rates beyond the capacity of the police to assure public safety without the aid of a juvenile curfew.

Sec. 9.09.020. Definitions. In this chapter:

A. Aid and abet means that a parent or guardian, with knowledge that it will promote or facilitate the commission of a curfew violation, either:

1. solicits, commands, encourages, helps, assists, or requests a juvenile to commit the violation; or

2. aids or agrees to aid a juvenile or another person in planning or committing the violation.

The word aid means all assistance whether given by words, acts, encouragement, support, presence or neglect of parental or custodial responsibilities for a juvenile required by any existing or hereafter enacted statute of this state.

B. Curfew hours mean 12:01 a.m. until 6:00 a.m. daily.

C. Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation
requiring immediate action to prevent serious bodily injury or loss of life.

D. Establishment means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any store, shop, restaurant, bowling alley, cafe, theater, drug store, golf course, pool room, shopping center, video arcade, and any other place open to the general public and devoted to business, amusement, or entertainment of the general public or other lawful purpose.

E. Guardian means:
   1. a person who, under court order, is the guardian of the person of a juvenile; or
   2. a public or private agency with whom a juvenile has been placed by a court; or
   3. a person who is at least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a juvenile.

F. Juvenile means any person under 18 years of age.

G. Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

H. Parent means a person who is a natural parent, adoptive parent, step-parent, or foster parent of a juvenile.

I. Public place means any street, alley, highway, parking lot, sidewalk, park, playground or place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose. Public place shall include, but not be limited to any public facility or any establishment such as a store, shop, restaurant, tavern, bowling alley, cafe, theater, drug store, golf course, pool room, shopping center, and any other place open to the general public and devoted to business, amusement or entertainment of the general public or other lawful purpose, whether publicly or privately
owned or operated. It shall also include the front or immediate area of the above, including, but not limited to, roads, sidewalks, alleyways, parking lots, parks or other similar areas open to the general public.

J. **Remain** means to:
   1. linger or stay; or
   2. fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises of any establishment or other public place.

K. **Serious bodily injury** means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Sec. 9.09.030. **Juvenile curfew.** Except as set forth in Section 9.09.050, it shall be a civil infraction for any juvenile to remain in any public place within the city during curfew hours.

Sec. 9.09.040. **Parental responsibility.** Except as set forth in Section 9.09.050, it shall be a civil infraction for any parent or guardian having custody or control of any juvenile to knowingly aid or abet the juvenile to commit a curfew violation.

Sec. 9.09.050. **Exemptions.**

A. It shall not be a violation of Section 9.07.030 and/or Section 9.09.040 that the juvenile was:
   1. accompanied by the juvenile's parent or guardian;
   2. on an errand at the direction of the juvenile's parent or guardian, without any detour or stop;
   3. in a motor vehicle involved in interstate travel;
   4. engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
   5. involved in an emergency;
   6. on the sidewalk abutting the juvenile's residence or abutting the residence of a next-door neighbor if the neighbor did not complain
to the police department about the juvenile's presence;

7. attending an official school, religious, recreational, or other activity supervised by adults or sponsored by the City of Kent, a civic organization, or another similar entity that takes responsibility for the juvenile, or going to or returning home from such activity, without any detour or stop;

8. lawfully present within or upon an establishment or going to or returning home from such establishment without any detour or stop;

9. going to or returning from the residence of another without any detour or stop.

10. exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

11. married and thus has achieved the age of majority pursuant to the Revised Code of Washington RCW 26.28.020, or has become emancipated in accordance with Ch. 13.64 RCW.

B. It shall not be a violation of section 9.09.040 when any parent or guardian, unable to control the whereabouts and activities of a juvenile in their care, custody, or control, has contacted the City of Kent Police Department and reported such juvenile as possibly appearing in locations and at times that would violate this chapter.

Sec. 9.09.060. Enforcement.

A. Prior to the issuance of a verbal or written warning or a Notice of Civil Infraction, a police officer shall ask the apparent offender's name, age, address, and the reason for being in the public place. The officer shall not issue a warning or citation or take further action under this section unless the officer reasonably believes a violation has occurred and that based on any response and other circumstances, no exemption exists under section 9.07.050.
B. Pursuant to RCW 13.32A.050(1)(b), a police officer, who reasonably believes that a juvenile is in violation of section 9.09.030, shall have the authority to take the juvenile into custody. Pursuant to RCW 13.32A.060, an officer taking a juvenile into custody shall inform the juvenile of the reason for such custody and shall either:

1. Transport the juvenile to his or her home or to a parent or guardian at his or her place of employment, if no parent or guardian is at home. The parent or guardian may request that the officer take the juvenile to the home of an adult extended family member, responsible adult, crisis residential center, the Department of Social and Health Services, or a licensed youth shelter. In responding to the request of the parent or guardian, the officer shall take the juvenile to a requested place which, in the officer’s belief, is within a reasonable distance of the parent or guardian’s home. The officer releasing a juvenile into the custody of a parent, guardian, an adult extended family member, responsible adult, or a licensed youth shelter shall inform the person receiving the child of the reason for taking the child into custody and inform all parties of the nature and location of appropriate services available in the community; or

2. After attempting to notify the parent or guardian, take the juvenile to a designated crisis residential center’s secure facility, or a center’s semi-secure facility if a secure facility is full, not available, or not located within a reasonable distance:

(a) if a juvenile expresses fear or distress at the prospect of being returned to his or her home which leads the officer to believe there is a possibility that the child is experiencing some type of child abuse or negligence, as defined in RCW 26.44.020; or
(b) if it is not practical to transport the juvenile to his or her home or place of the parent or guardian's employment; or
(c) if there is no parent or guardian available to accept custody of the child; or

3. After attempting to notify the parent or guardian, if a crisis residential center is full, not available, or not located within a reasonable distance, the officer may request the Department of Social and Health Services to accept custody of the juvenile. If the Department determines that an appropriate placement is currently available, the Department shall accept custody and place the juvenile in an out-of-home placement. If the Department declines to accept custody of the juvenile, the officer may release the juvenile after attempting to take the juvenile to the following, in the order listed:
(a) the home of an adult extended family member;
(b) a responsible adult;
(c) a licensed youth shelter.

The officer shall immediately notify the Department of Social and Health Services if no placement option is available and the child is released.

C. An officer's responsibilities under section 9.09.060(8), after taking a juvenile into custody for a curfew violation, shall be changed, expanded or limited without further amendment to be consistent with the provisions of RCW 13.32A.050 and .060 as now or hereafter amended.

Sec. 9.09.070 Violations and Penalties.

A. It shall be a civil infraction to commit a violation of section 9.09.030 or 9.09.040. The Kent Municipal Court shall have jurisdiction over all civil infractions issued under this chapter. Civil infractions shall be issued and
processed in accordance with RCW Chapter 7.80 as currently enacted or as hereinafter amended, which is incorporated herein by reference.

B. A person found to have committed a civil infraction shall be assessed a monetary penalty as follows:
1. the first violation shall be subject to a verbal or written warning.
2. the second violation within a one-year period shall be subject to a civil penalty of $100.
3. the third or subsequent violation within a one-year period shall be subject to a civil penalty of $250.

Sec. 9.09.080. Severability. If any one or more sections, subsections, or sentences of this Chapter 9.09 of the Kent City Code 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 3. - Severability. If any one or more sections, 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 4. - Effective Date. With the following limitations, this Ordinance shall take effect and be in force five (5) days after publication as provided by law; however, section one of this ordinance shall not take effect or be in force until immediately upon passage by a majority of votes cast by the electors of the City of Kent and upon certification by the King County Records and Elections Division as provided by law and, if the electors repeal section one of this ordinance, section two of this ordinance shall not take effect or be in force until immediately upon passage by a majority of votes.
cast by the electors of the City of Kent and upon certification by the King County Records and Elections Division as provided by law.

JIM WHITE, MAYOR

ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

ROGER A. LUBOVICH, CITY ATTORNEY


APPROVED: 15 day of July, 1997.

I hereby certify that this is a true copy of Ordinance No. 3355, 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

PASSED by a majority of votes cast by the electors of the City of Kent on the 16th day of September, 1997.

I hereby certify that this is a true copy of Ordinance No. 3355, passed by a majority of votes cast by the electors of the City of Kent as hereon indicated.

BRENDA JACOBER, CITY CLERK

Certified by King County Elections on September 26, 1997

Juvenile Safety/Curfew