Ordinance No. 3507

(Amending or Repealing Ordinances)

CONO=0131 Zoning Codes
Passed – 3/21/2000
Hazardous Substance – Diesel Fuel Exemption
(Amending KCC 15.08.050 adding new Sec. 15.08.050(D)(9)(k))

Amends Ords. 2801,2808

Amended by Ord. 3691 (Sec. 15.08.050(D)(9))
Amended by Ord. 3700 (Sec. 15.08.050(D)(9))
Amended by Ord. 3916 (Sec. 15.08.050)
Amended by Ord. 4003 (Sec. 15.08.050)
ORDINANCE NO. 3507

AN ORDINANCE of the City Council of the City of Kent, Washington, exempting certain diesel fuel tanks exclusively intended for use on stationary, on-site, oil burning equipment from City of Kent hazardous substance zoning code regulations and also establishing a five-foot landscape buffer for all above-ground diesel fuel tanks with a capacity exceeding 500 gallons.

WHEREAS, diesel fuel is a recognized hazardous substance under the Washington Administrative Code; and

WHEREAS, the Kent City Code regulates the placement and size of diesel fuel tanks under its hazardous substance zoning code regulations; and

WHEREAS, certain businesses and governmental facilities within the City of Kent now require back-up generators to provide electricity to their businesses so that they may maintain uninterrupted connections to the internet and other data transmission links; and

WHEREAS, in order for these businesses and facilities to be assured that they will be able to generate a sufficient amount of electricity for a sufficient amount of
time, they have sought exemptions from the capacity requirement for diesel fuel tanks that are exclusively intended to serve stationary, on-site, oil burning equipment (such as electrical power generators); and

WHEREAS, at the City of Kent Land Use and Planning Board public hearing on this matter, held on February 28, 2000, the Land Use and Planning Board approved the exemptions for diesel fuel tanks established in this ordinance; and

WHEREAS, according to the testimony of Lieutenant Michael Evans, Assistant Fire Marshall for the City of Kent, the removal of the City of Kent hazardous substance zoning code regulations would not affect the Fire Department’s authority under the Uniform Fire Code to sufficiently and safely regulate the presence of these tanks within the City of Kent; NOW THEREFORE,

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

SECTION 1. — Section 15.08.050 is amended by adding a new subsection 15.08.050(D)(9)(k):

Sec. 15.08.050. Performance standards.
A. Performance standards defined. Performance standards deal with the operational aspects of land uses. While performance standards shall apply to all land uses within the city, they are primarily concerned with the impact of industrial development upon the environment. Continued compliance with the performance standards shall be required of all uses, except as otherwise provided for in this title. No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable condition. The following elements, if created, may become dangerous, injurious, noxious or otherwise objectionable under the circumstances, and are then referred to as dangerous or objectionable elements:

Hazardous Substance – Diesel Fuel Exemption
1. Noise, vibration or glare.
2. Smoke, dust, odor or other form of air pollution.
3. Heat, cold or dampness.

B. Nonconforming uses. Uses established before the effective date of this title and nonconforming as to performance standards shall be given three (3) years in which to conform therewith.

C. Locations where determinations are to be made for enforcement of performance standards. The determination of the existence of any dangerous and objectionable elements shall be made at the location of the use creating the dangerous or objectionable elements and at any points where the existence of such elements may be more apparent (referred to in the section as “at any point”); provided, however, that the measurement of performance standards for noise, vibration, odors, glare or hazardous substances or wastes shall be taken at the following points of measurement:

1. In all districts: At the property lines or lot lines; or
2. In all districts: At the buffer zone setback line for any hazardous substance and use facility, which must be at least fifty (50) feet from any property line.

D. Restrictions on dangerous and objectionable elements.

1. Noise. At the points of measurement specified in subsection (C) of this section, the maximum sound pressure level radiated in each standard octave band by any use or facility, other than transportation facilities or temporary construction work, shall not exceed the values for octave bands lying within the several frequency limits given in Table I after applying the corrections shown in Table II. The sound pressure level shall be measured with a sound level meter and associated octave band analyzer conforming to standards prescribed by the American Standards Association. (American Standard Sound Level Meters for Measurement of Noise and Other Sounds, Z24.3-1944, American...
Standard Specification for an Octave Band Filter Set for the Analysis of Noise and Other Sounds, Z24.10-1953, or latest approved revision thereof, American Standards Association, Inc., New York, N.Y., shall be used.)

### Table I.
SOUND PRESSURE LEVELS IN DECIBELS

<table>
<thead>
<tr>
<th>Octave Band (cycles per second)</th>
<th>Maximum Permitted Sound Pressure Level (decibels)</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 – 75</td>
<td>75</td>
</tr>
<tr>
<td>75 – 150</td>
<td>70</td>
</tr>
<tr>
<td>150 – 300</td>
<td>64</td>
</tr>
<tr>
<td>300 – 600</td>
<td>59</td>
</tr>
<tr>
<td>600 – 1,200</td>
<td>53</td>
</tr>
<tr>
<td>1,200 – 2,400</td>
<td>47</td>
</tr>
<tr>
<td>2,400 – 4,800</td>
<td>40</td>
</tr>
<tr>
<td>4,800 – 10KC</td>
<td>34</td>
</tr>
</tbody>
</table>

### Table II.
CORRECTION IN MAXIMUM PERMITTED SOUND PRESSURE LEVEL IN DECIBELS TO BE APPLIED TO TABLE I

<table>
<thead>
<tr>
<th>Type of Operation or Character of Noise</th>
<th>Correction in Decibels</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noise source operates less than twenty (20) percent of any one (1) hour period</td>
<td>Plus 5*</td>
</tr>
<tr>
<td>Noise source operates less than five (5) percent of any one (1) hour period</td>
<td>Plus 10*</td>
</tr>
<tr>
<td>Noise source operates less than one (1) percent of any one (1) hour period</td>
<td>Plus 15*</td>
</tr>
<tr>
<td>Noise of impulsive character (hammering, etc.)</td>
<td>Minus 5</td>
</tr>
<tr>
<td>Noise of periodic character (hum, screech, etc.)</td>
<td>Minus 5</td>
</tr>
</tbody>
</table>

*Apply one (1) of these corrections only.
2. *Vibration.* No vibration shall be permitted which is discernible without instruments at the points of measurement specified in this section.

3. *Odors.* No emission shall be permitted of odorous gases or other odorous matter in such quantities so as to exceed the odor threshold at the following points of measurement. The odor threshold shall be defined as the concentration in the air of a gas or vapor which will just evoke a response in the human olfactory system.

   a. *Industrial park district, M1.* Odorous matter released from any operation or activity shall not exceed the odor threshold beyond lot lines.

   b. *Limited industrial district, M2.* Odorous matter released from any operation or activity shall not exceed the odor threshold beyond lot lines.

   c. *General industrial district, M3.* Odorous matter released from any operation or activity shall not exceed the odor threshold beyond the district boundary or five hundred (500) feet from the lot line, whichever distance is shortest.

4. *Glare.* No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding or otherwise, so as to be visible at the points of measurement specified in subsection (C) of this section shall be permitted. This restriction shall not apply to signs or floodlighting of buildings for advertising or protection otherwise permitted by the provisions of this title.

5. *Radioactivity or electrical disturbance.* The regulations of the federal occupational safety and health standards shall apply for all radioactivity and electrical disturbance unless local codes and ordinances supersede this federal regulation.

6. *Fire and explosion hazards.* The relevant provisions of federal, state and local laws and regulations shall apply.

7. *Smoke, fly ash, dust, fumes, vapors, gases and other forms of air pollution.* The standards of the Puget Sound Air Pollution Control Agency, Regulation 1, or those regulations as may be subsequently amended, shall apply.

8. *Liquid or solid wastes.* No discharge of any materials of such nature or temperature as can contaminate any water supply, interfere with bacterial processes in
sewage treatment or otherwise cause the emission of dangerous or offensive elements shall be permitted at any point into any public sewer, private sewage disposal system or stream, or into the ground, except in accord with standards approved by the State Department of Ecology or other appropriate state agencies.

9. **Hazardous substances or wastes.** No release of hazardous substances or wastes as can contaminate any water supply, interfere with bacterial processes in sewage treatment or otherwise cause the emission of dangerous or offensive elements shall be permitted at any point into any public sewer, private sewage disposal system, watercourse or water body, or the ground, except in accordance with standards approved by the State Department of Ecology or other appropriate state or federal agency. The relevant provisions of federal, state and local laws and regulations shall apply, and compliance shall be certified by applicants for permits under this title. The following site development standards shall apply:

a. Hazardous waste facilities shall meet the location standards for siting dangerous waste management facilities adopted pursuant to Chapter 70.105 RCW;

b. Hazardous substance land use facilities shall be located at least:

   (1) Two hundred (200) feet from unstable soils or slopes which are delineated on the hazard area development limitations map or as may be more precisely determined per KCC 15.08.224(B);

   (2) Two hundred (200) feet from the ordinary high-water mark of major or minor streams or lakes which are delineated on the hazard area development limitations map or as may be more precisely determined per KCC 15.08.224(B), shorelines of statewide significance, or shorelines of the state;

   (3) One-quarter (1/4) mile from public parks, public recreation areas or natural preserves, or state or federal wildlife refuges; provided, that for purposes of this section public recreation areas does not include public trails;

   (4) Fifty (50) feet from any property line to serve as an onsite hazardous substance land use facility buffer zone;
(5) Five hundred (500) feet and one hundred (100) feet from a residential zone and a residential unit respectively; and

(6) Five hundred (500) feet from a public gathering place or agricultural land or zone, in the case of a nonagricultural hazardous substance land use facility;

c. Hazardous substance land use facilities shall not be located in a one hundred (100) year floodplain;

d. Hazardous substance land use facilities which are not entirely enclosed within a building shall provide a type I solid screen landscaping of a width of at least ten (10) feet in the hazardous substance facility buffer zone required by subsection (b)(4) of this section;

e. Aboveground hazardous substance land use facilities shall be constructed with containment controls which will prevent the escape of hazardous substances or wastes in the event of an accidental release from the facility, and shall meet federal, state and local design and construction requirements;

f. Underground hazardous substance land use facilities shall meet federal, state and local design and construction requirements;

g. Hazardous substance land uses shall comply with Article 80 of the Uniform Fire Code as revised in 1988 and thereafter;

h. Hazardous substance land uses shall provide for review and approval by the city fire department of a hazardous substance spill contingency plan for immediate implementation in the event of a release of hazardous substances or wastes at the facility;

i. Hazardous substance land uses should use traffic routes which do not go through residential zones; and

j. Hazardous substance land uses in the O, NCC, CC and DC zones shall be entirely enclosed within a building; and:

(k) Without limiting the application of the Uniform Fire Code to diesel fuel tanks, above and below ground diesel fuel storage tanks exclusively intended...
for use on stationary, on-site, oil burning equipment (such as electrical power generator
systems) in all non-residential zoning districts shall be exempt from the Hazardous
Substance regulations of Section 15.08.050, and above and below ground diesel fuel
tanks of up to six thousand (6,000) gallons intended exclusively for use on stationary, on-
site, oil burning equipment (such as electrical power generator systems) in residential
zones shall be exempt from the hazardous substance regulations of Section 15.08.050 for
essential governmental facilities only. The hazardous substance zoning code regulations,
including the existing five hundred (500) gallon limit for hazardous substances for
residential uses, shall otherwise remain in force and effect. Additionally, all above
ground diesel fuel tanks over five hundred (500) gallons exempted by this subsection are
required to have a five-foot minimum landscape buffer surrounding the tank to buffer the
visual impacts of these tanks. Moreover, the planning director shall have the discretion
to increase or modify this landscape buffer requirement depending upon the specific
circumstances posed by any particular tank location.

In case of conflict between any of these site development standards and the
development standards of specific zoning districts or other requirements of this title, the
more restrictive requirement shall apply.

SECTION 2. – Severability. If any one or more section, 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 3. – Effective Date. This ordinance shall take effect and be in
force five (5) days from and after the date of passage and publication as provided by law.

JIM WHITE, MAYOR
I hereby certify that this is a true copy of Ordinance No. 3507, 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

(SEAL)