ORDINANCE NO. 3916

AN ORDINANCE of the City Council of the City of Kent, Washington, creating an illicit discharge detection and elimination program related to the City's stormwater system, and amending the Kent City Code (KCC) to implement the program, including: amending KCC 7.05.140, entitled "Permits"; repealing KCC 7.05.150, entitled, "Unlawful discharges monitored-Director's emergency authority"; amending title 7 to add a new chapter 7.14, entitled "Illicit Discharges"; and amending KCC 15.08.050, entitled "Performance Standards."

RECITALS

A. The Federal Clean Water Act of 1972 required the establishment of the National Pollutant Discharge Elimination System (NPDES) to regulate discharges to waters under the jurisdiction of the United States. The United States Environmental Protection Agency administers the NPDES program, but has delegated administrative authority to the Washington State Department of Ecology. The Washington State Department of Ecology issued the NPDES-Western Washington Phase II Municipal Stormwater Permit (Phase II Permit) on January 17, 2007.
B. The City of Kent was required to apply for coverage under the Phase II Permit, and was granted coverage effective from February 16, 2007, to February 15, 2012. The Phase II permit requires the City to develop an Illicit Discharge Detection and Elimination (IDDE) program, which includes "an ordinance or other regulatory mechanism to effectively prohibit non-stormwater, illegal discharges, and dumping into the municipal separate storm sewer system to the maximum extent allowable under state and federal law".

C. The State Environmental Policy Act (SEPA) responsible official has determined that the proposed Kent City Code amendments are procedural in nature, and further SEPA analysis is not required for these local code amendments. A draft version of this ordinance was submitted to the Washington State Department of Community, Trade, and Economic Development for expedited review on March 9, 2009. The ordinance was considered by the City Land Use and Planning Board after a duly noticed public hearing on April 27, 2009.

D. Section 7.05.150 of the Kent City Code currently prohibits the introduction of pollution into the City’s stormwater system, but the code does not meet all of the requirements of the Phase II Permit. This code amendment, prohibiting illicit discharges into the City’s municipal separate storm sewer system and giving the City authority to abate violations, will meet the requirements of the Phase II Permit. These amendments will also help preserve water quality and protect fish and wildlife in surface waters within and downstream of the City limits.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS follows:
ORDINANCE

SECTION 1. - Amendment. Section 7.05.140 of the Kent City Code, entitled "Permits," is amended as follows:

Sec. 7.05.140. Permits. Permits are hereby required for any person to construct, install, place, or attempt to construct, install, or place any storm or surface drainage structure or facility within the city. Every person desiring to construct or install any storm or surface water facility, whether on private or public property, shall make application for same to the public works department prior to commencing work on such project. Such applications shall be made on forms provided by the department prior to commencing work on such project, and shall include all information as may be required by the department. The application shall be approved by the public works director or designee, prior to construction; provided, that such construction or installation is in compliance with all city ordinances, regulations, and other controls or standards. Each application submitted to the public works department shall be accompanied by payment for a construction permit fee in an amount established by the city council. In addition to the other penalties that may be provided by law, failure to obtain such a permit will result in the fee being doubled. Such fees shall defray part of the cost of inspections and plan reviews required by the city prior to and during the construction of storm and surface water drainage facilities. All such fees shall be placed in a separate revenue account for the storm and surface water utility. This section shall not be construed to duplicate any other existing city requirements.

2. To discharge or in any way release or contribute to pollution in any storm or surface water run-off which enters into the storm and surface water facilities within the city. The determination of whether a parcel is contributing pollutants to storm or surface water run-off will be

Illicit Discharges
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made by the public works department, using American Public Health Association 1980 Standard Methods for the Examination of Water and Waste Water, Fifteenth Edition, as amended, to identify one (1) or more of the pollutants listed by the Environmental Protection Agency in Water Quality Documents published in the Federal Register, Volume 5, #231 dated 11/28/80, or in Water Quality Standards for Waters of the State (Chapter 173-201 WAC) or in Dangerous Wastes Regulations (Chapter 173-303 WAC). Copies of all such documents are filed with the city clerk and copies are maintained at the public works department. If the owner of a parcel of real property within the city, or any other person occupying or using such parcel, is determined to be contributing pollutants to storm or surface water run off, the owner shall be required to obtain a pollution discharge permit. Applications for such permits must be made by the owner to the public works department on forms provided by the department and must be accompanied with payment of the pollution discharge permit fee. The pollution discharge permit fee shall be established by the city council. Such fees shall cover part of the cost of the storm and surface water utility’s water quality monitoring and enforcement program. All such fees shall be placed in a separate revenue account for the storm and surface water utility.

SECTION 2. - Repealer. Section 7.05.150 of the Kent City Code, entitled "Unlawful discharges monitored - Director's emergency authority," is hereby repealed in its entirety.

SECTION 3. - Amendment. Title 7 of the Kent City Code, is amended to add the new chapter 7.14 entitled, "Illicit Discharges," as follows:

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CHAPTER 7.14
ILLElicit DISCHARGES

Sec. 7.14.010. Purpose. The purpose of this chapter is to prevent non-stormwater from entering the City of Kent Municipal Separate Storm Sewer System ("MS4") to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this chapter are:

A. To regulate the contribution of pollutants to the MS4;

B. To prohibit illicit connections and discharges to the MS4;

C. To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this chapter; and

D. To mitigate impacts to water quality as a result of increased runoff due to urbanization, correct or mitigate existing water quality problems related to stormwater, and to help restore and maintain the chemical, physical, and biological integrity of the City’s waters for the protection of beneficial uses, including salmonid habitat and aquifer recharge.

Sec. 7.14.020. Definitions. As used in this chapter, the following words, terms, and phrases shall have the meanings ascribed to them in this section, unless a different meaning is plainly required.

A. Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution
prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or the MS4. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

B. *Clean Water Act (CWA)* means the federal Water Pollution Control Act (33 U.S.C. § 1251, et seq.), and any subsequent amendments thereto.

C. *Construction activity* means land disturbing operations including clearing, grading or excavation which disturbs the surface of the land. Such activities may include road construction, construction of residential houses, office buildings, or industrial buildings, and demolition activity.

D. *Director* means the City of Kent Public Works Director.

E. *Groundwater* means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

F. *Hazardous material* means any material; including any substance, waste, or combination thereof; which because of its quantity, concentration, or physical, chemical, or infectious characteristics; may cause or significantly contribute to a substantial present or potential hazard to human, health, safety, property, or the environment; when improperly treated, stored, transported, disposed of, or otherwise managed.

G. *Hyper-Chlorinated* means water that contains more than ten (10) mg/Liter chlorine. Disinfection of water mains and appurtenances requires
a chlorine residual of ten (10) mg/Liter at the end of the disinfection period.

H. *Illicit discharge* means any direct or indirect non-stormwater discharge to the MS4, except as expressly exempted by this chapter.

I. *Illicit connections* means any conveyance that is connected to the MS4 without a permit, excluding roof drains and foundation drains. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the MS4. Illicit connections allow an illicit discharge to enter the MS4 and include, but are not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the MS4; any connections to the MS4 from indoor drains and sinks, regardless of whether such drain or connection was previously allowed, permitted, or approved by an authorized enforcement agency; or any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the city or another agency of government duly authorized to give such approvals.

J. *Industrial activity* means activities subject to NPDES Industrial Permits as defined in 40 CFR, § 122.26(b)(14).

K. *Municipal Separate Storm Sewer System (MS4)* means a conveyance, or system of conveyances; including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains:

1. Owned or operated by a state, city, town, county, district, port, or other public body created by or pursuant to state law having
jurisdiction over disposal of wastes, stormwater, or other wastes, including
special districts under state law such as a sewer district, flood control
district or drainage district, or similar entity, or an Indian tribe or an
authorized Indian tribal organization, or a designated and approved
management agency under Section 208 of the CWA that discharges to
Waters of the State;

2. Designed or used for collecting or conveying stormwater;
3. Which is not a combined sewer; and
4. Which is not part of a Publicly Owned Treatment Works
(“POTW”) as defined at 40 CFR §122.2.

L. National Pollutant Discharge Elimination System (NPDES)
Stormwater Discharge Permit means a permit issued by the Environmental
Protection Agency (EPA), or by the Washington Department of Ecology
under authority delegated pursuant to 33 U.S.C. § 1342(b), that
authorizes the discharge of pollutants to waters of the state, whether the
permit is applicable to an individual, group, or general area-wide basis.

M. Non-stormwater discharge means any discharge to the MS4 that is
not composed entirely of stormwater.

N. Owner/operator means any person or entity with an ownership
interest or control over real property on which a violation of this chapter
occurs, any person or entity participating in any activity regulated by this
chapter, and any person or entity participating in any violation of this
chapter.

O. Pollutant means anything which causes or contributes to pollution.
pollutants may include, but are not limited to: paints, varnishes, and
solvents; oil and other automotive fluids; non-hazardous liquid and solid
wastes and yard wastes; refuse, rubbish, garbage, litter, or other
discarded or abandoned objects, and accumulations, so that the same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous materials and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

P. *Premises* means any real property or interest in real property and any improvement upon real property.

Q. *RCW* means the state Revised Code of Washington. It is the compilation of all permanent state laws now in force.

R. *Sanitary sewage* means domestic wastewater including flushed toilet water, water from dishwashers, clothes washing machines, and any other used water that generally is disposed of down interior household drains.

S. *Sanitary sewer system* means a conveyance, or system of conveyances which is designed to convey domestic wastewater.

T. *Stormwater* means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

U. *Stormwater pollution prevention plan* means a document which describes the BMP’s and activities to be implemented by an owner/operator or business to identify sources of pollution or contamination at a site, and the actions to eliminate or reduce pollutant discharges to stormwater, the MS4, and/or receiving waters.
V. *Waters of the state* means those waters as defined as "Waters of the United States" in 40 CFR § 122.2 within the geographic boundaries of the state of Washington and "Waters of the State" as defined in chapter 90.48 RCW, which includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and water courses within the jurisdiction of the state of Washington.

W. *Water quality standards* means the Water Pollution Control Act, as defined herein; Surface Water Quality Standards - Washington Administrative Code (WAC) § 173-201A; Ground Water Quality Standards - WAC § 173-200; and Sediment Management Standards - WAC § 173-204. The water quality standards are established to sustain public health and public enjoyment of the waters and the propagation and protection of fish, shellfish, and wildlife.

X. *Wastewater* means any water or other liquid, other than uncontaminated stormwater, discharged from any premises.

**Sec. 7.14.030. Applicability.** This chapter shall apply to all owners/operators as defined herein.

**Sec. 7.14.040. Entry onto premises.** With the consent of the owner/operator of any premises or pursuant to a lawfully issued warrant, the director may enter any premises at any reasonable time to perform the duties imposed by this chapter.
Sec. 7.14.050. Prohibited discharges.

A. No owner/operator shall discharge or cause an illicit discharge of any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards as herein defined, to enter into the MS4 or watercourses.

B. Prohibited discharges include but are not limited to the following list, provided for informational purposes only, of common substances which are illicit discharges when discharged to the MS4:

1. Solid waste, trash or debris;
2. Human and animal waste;
3. Petroleum products including but not limited to oil, gasoline, grease, fuel, oil, and heating oil;
4. Antifreeze and other automotive products;
5. Flammable or explosive materials;
6. Radioactive material;
7. Construction materials;
8. Batteries;
9. Acids, alkalis, or bases;
10. Pesticides, herbicides, or fertilizers;
11. Metallic materials in excess of naturally occurring amounts, whether in liquid or solid form;
12. Solvents and degreasers;
13. Drain cleaners: commercial and household cleaning materials;
14. Pesticides, herbicides, or fertilizers;
15. Ink;
16. Steam-cleaning waste;
17. Laundry waste, soap, detergent, and ammonia;
18. Domestic or sanitary sewage;
19. Animal carcasses;
20. Food and food waste including fats, oils, and grease (FOG);
21. Recreational vehicle waste;
22. Swimming pool or spa filter backwash;
23. Chlorine, bromine, or other disinfectants;
24. Heated water;
25. Yard waste, dirt, sand, and gravel;
26. Bark and other fibrous materials;
27. Collected lawn clippings, leaves, or branches;
28. Silt, sediment, concrete, cement, or gravel;
29. Dyes, except as permitted by KCC 7.14.060;
30. Chemicals not normally found in uncontaminated water;
31. Chlorinated swimming pool or hot tub water except as permitted by KCC 7.14.070;
32. Discharges from potable water sources which may include but are not limited to: water line flushing, hyper-chlorinated water line flushing, fire hydrant flushing, and pipeline hydrostatic test water, except as permitted by KCC 7.14.070;
33. Any other process-associated discharge except as otherwise allowed in this chapter; or
34. Any hazardous material or waste not listed above.

Sec. 7.14.060. Allowable discharges. The following types of discharges shall not be considered illicit discharges for the purposes of this chapter unless the director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

A. Diverted stream flows;
B. Rising groundwaters;
C. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20);
D. Uncontaminated pumped groundwater water;
E. Foundation drains discharging clean stormwater only;
F. Air conditioning condensation;
G. Irrigation water from agricultural sources that is commingled with urban stormwater;
H. Springs;
I. Water from crawl space pumps discharging clean stormwater only;
J. Footing drains discharging clean stormwater only;
K. Flows from riparian habitats and wetlands;
L. Non-stormwater discharges covered by another NPDES permit;
M. Discharges from emergency fire fighting activities; or
N. Dye testing using environmental friendly products for the purpose of testing or tracing source pollution is allowable but requires verbal notification to the City prior to the time of testing.

Sec. 7.14.070. Conditional discharges. The following types of discharges shall not be considered illicit discharges for the purposes of this chapter if they meet the stated conditions, unless the director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

A. Potable water, including water from water line flushing, hyper-chlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary, and in volumes and velocities controlled to prevent re-suspension of sediments in the MS4;
B. Lawn watering and other irrigation runoff are permitted but shall be minimized;

C. De-chlorinated swimming pool discharges. These discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary, and in volumes and velocities controlled to prevent re-suspension of sediments in the MS4;

D. Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water used is minimized; or

E. Other non-stormwater discharges. The discharges shall be in compliance with the requirements of a stormwater pollution prevention plan reviewed by the City which addresses such discharges.

Sec. 7.14.080. Illicit connections prohibited. No owner/operator shall connect a conveyance system which was not constructed or intended to convey precipitation runoff, or which has been converted from such usage to another use, to the MS4 or groundwater infiltration system. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. An owner/operator is considered to be in violation of this chapter if the owner/operator connects a line conveying sanitary sewage to the MS4 or allows such a connection to continue.
Sec. 7.14.090. Suspension of discharge access to MS4. As permitted by applicable law, the City may suspend MS4 access to an owner/operator when such suspension is necessary to stop an actual or threatened discharge which is or would be prohibited under this chapter.

Sec. 7.14.100. Inspections.

A. The director may establish inspection programs to ensure compliance with the requirements of this chapter and to accomplish its purposes. Inspection programs may be established on any reasonable basis including, but not limited to, routine inspections, random inspections, inspections based upon complaints or other notice of possible violations, inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants, inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the City’s NPDES stormwater permit, and joint inspections with other agencies inspecting under environmental or safety laws.

B. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, and material or water in the MS4; and evaluating the condition of the MS4 and other BMP’s.

Sec. 7.14.110. Re-inspections. It shall be the duty of the owner/operator to notify the director that violations have been corrected, and to request a re-inspection. The director may require that such request for re-inspection be filed one (1) working day before such inspection. It shall be the duty of the owner/operator to provide safe access to and means for inspection of any corrective work.
Sec. 7.14.120. Monitoring of discharges. As permitted by applicable law, the City shall conduct or cause to be conducted monitoring and/or sampling of the stormwater discharge from any premises, and may recover the costs of so doing from the owner/operator of the premises.

Sec. 7.14.130. Requirements to prevent, control, and reduce stormwater pollutants by the use of BMP’s. The owner/operators engaging in industrial activity shall provide, at owner/operator’s expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of these structural and non-structural BMPs. Further, any owner/operator responsible for premises, which are, or may be, the source of an illicit discharge, may be required to implement, at owner/operator’s expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a Storm Water Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

Sec. 7.14.140. Industrial or construction activity discharges. Any owner/operator subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with such permit may be required in a form acceptable to the City prior to allowing discharge to the MS4 and failure to comply with the provisions of such permit will constitute a violation of this chapter.
Sec. 7.14.150. Violations and enforcement. Whenever the City finds that an owner/operator has violated or failed to meet a requirement in any provision of this chapter, the City may pursue the code enforcement procedures set forth in Ch. 1.04 KCC. Any violation of this chapter that is deemed by the director to be a threat or potential threat to the public health, safety and welfare may be abated as a nuisance or pursuant to any other applicable local, state or federal law or regulation. Regulation under this chapter shall not serve as a shield to any action under other applicable laws or regulations of the City, State, or United States.

SECTION 4. - Amendment. Section 15.08.050 of the Kent City Code, entitled "Performance Standards," is amended as follows:

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:

1. Noise, vibration, or glare.
2. Smoke, dust, odor, or other form of air pollution.
3. Heat, cold, or dampness.

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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 land 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 the 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>

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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 lot lines.

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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 I, 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 and federal regulations and Ch. 7.14 KCC.

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 compliance with state and federal regulations and Ch. 7.14 KCC. 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 do 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;

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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 (9)(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 adopted fire codes;

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;

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 adopted fire codes to diesel fuel tanks, above and below ground diesel fuel storage tanks exclusively intended for use on stationary, onsite, oil burning equipment (such as electrical power generator systems) in all nonresidential zoning districts shall be exempt from the hazardous substance regulations of this section, and above and below ground diesel fuel tanks of up to six thousand (6,000) gallons intended exclusively for use on stationary, onsite, oil burning equipment (such as electrical power

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generator systems) in residential zones shall be exempt from the hazardous substance regulations of this section 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 aboveground diesel fuel tanks over five hundred (500) gallons exempted by this subsection are required to have a five (5) 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 5. – Severability. If any one or more section, 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 6. – Effective Date. This Ordinance shall take effect and be in force thirty (30) days from and after its passage as provided by law.

Suzette Cooke, Mayor

ATTEST:

Brenda Jacober, City Clerk
I hereby certify that this is a true copy of Ordinance No. 3619 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