ORDINANCE NO. 3954

AN ORDINANCE of the City Council of the City of Kent, Washington, amending chapter 9.02 of the Kent City Code, entitled "Criminal Code," in order to adopt by reference for enforcement in Kent new and amended code provisions recently adopted by the state Legislature.

RECITALS

A. During its 2009 legislative session, the Washington State Legislature adopted four bills that either adopt new provisions within the Revised Code of Washington ("RCW") or amend existing provisions that require amendment of the Kent City Code to adopt these state statutes for enforcement in Kent.

B. RCWs 9.41.171, 9.41.173, and 9.41.175 require non-US citizens who are residents of the State of Washington to obtain a state firearm license before carrying or possessing a firearm in the State of Washington. RCW 9.41.173 states that an alien resident who knowingly makes a false statement of citizenship or identity on an application for an alien firearm license is guilty of False Swearing (RCW 9A.72.040), a gross misdemeanor. Violation of other licensing requirements set forth by these statutes is a Class C felony. If the King County Prosecutor declines to file charges for this felony violation, adopting these statutes for enforcement

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in Kent will allow Kent prosecutors to charge a violation as a misdemeanor offense.

C. At RCW 16.52.310, the state legislature enacted a new provision that prohibits a person from owning, possessing, or controlling more than 50 dogs with intact sexual organs that are over the age of six (6) months. The statute adopts various provisions in an effort to provide for the humanitarian treatment of dogs used in breeding practices, e.g.: a crate size that sufficiently allows the dog to lie down without having to touch any part of the crate or another dog, at least a one hour exercise period per day, and that the breeding facilities and dog enclosures be kept in a sanitary condition. Violation of this statute is punishable as a gross misdemeanor. The statute is not applicable to publicly run animal shelters, private and/or not-for-profit animal rescue organizations, veterinary facilities, pet stores, research institutes, boarding and/or grooming facilities, or commercial dog breeders licensed by the U.S. Department of Agriculture before January 1, 2010.

D. The legislature adopted a new law at RCW 70.54.400, which makes it a class 2 civil infraction to deny members of the public with certain medical conditions the use restrooms a retail establishment makes available to its employees. Medical conditions covered under this new statute include Crohn’s disease, ulcerative colitis, irritable bowel syndrome, or other inflammatory bowel disease; irritable bowel syndrome; any condition requiring use of an ostomy device; or any permanent or temporary medical condition that requires immediate access to a restroom. The first time that a retail establishment violates the statute, the statute requires that the City Attorney send a warning letter to the owner or operator and to any employee who denied access, informing them of the statutory requirements. Any subsequent violations carry a maximum fine amount of $125, plus statutory assessments, which may be assessed against the retail establishment or its employee who denied access.
E. Finally, the state legislature amended RCW 46.20.270 to provide that the term "conviction" as used in that statute shall have the same meaning as provided for in RCW 46.25.010. The legislature then amended RCW 46.25.010 to provide that the term includes a person's entry into a deferred prosecution program for purposes related to the Department of Licensing's regulation of commercial drivers' licenses. The effect of this amendment is to allow the Department of Licensing to consider a deferred prosecution sentence in evaluating whether to suspend or revoke a driver's commercial driving license.

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

ORDINANCE

SECTION 1. - Amendment. Section 9.02.060 of the Kent City Code, entitled "RCW Title 9, entitled 'Crimes and Punishments' - Adoption by reference," is amended as follows:

Sec. 9.02.060. RCW Title 9, entitled "Crimes and Punishments" - Adoption by reference. The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW
9.01.055 Citizen immunity if aiding officer, scope - When.
9.01.110 Omission, when not punishable.
9.01.130 Sending letter, when complete.
9.02.050 Concealing birth.
9.03.010 Abandoning, discarding refrigeration equipment.
9.03.020 Permitting unused equipment to remain on premises.
9.03.040 Keeping or storing equipment for sale.
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9.26A.120 Fraud in operating coin-box telephone or other receptacle.
9.26A.130 Penalty for manufacture or sale of slugs to be used for coin.
9.27.015 Interference, obstruction of any court, building, or residence – Violations.
9.35.030 Soliciting undesired mail.
9.38.010 False representation concerning credit.
9.38.015 False statement by deposit account applicant.
9.40.040 Operating engine or boiler without spark arrester.
9.40.100 Tampering with fire alarm or fire fighting equipment – False alarm – Penalties.
9.41.010 Terms defined.
9.41.040 Unlawful possession of firearms – Ownership, possession by certain persons – Penalty.
9.41.050 Carrying firearms.
9.41.060 Exceptions to restrictions on carrying firearms.
9.41.090 Dealer deliveries regulated – Hold on delivery.
9.41.100 Dealer licensing and registration required.
9.41.110 Dealer’s licenses, by whom granted, conditions, fees – Employees, fingerprinting and background checks – Wholesale sales excepted – Permits prohibited.
9.41.140 Alteration of identifying marks – Exceptions.
9.41.173 Alien possession of firearms – Alien firearm license – Political subdivisions may not modify requirements – Penalty for false statement.
9.41.175 Alien possession of firearms – Possession without license – Conditions.
9.41.220 Unlawful firearms and parts contraband.
9.41.230 Aiming or discharging firearms, dangerous weapons.
9.41.240 Possession of pistol by person from eighteen to twenty-one.
9.41.250 Dangerous weapons – Penalty.
9.41.260 Dangerous exhibitions.
9.41.270 Weapons apparently capable of producing bodily harm – Unlawful carrying or handling – Penalty – Exceptions.
9.41.280 Possessing dangerous weapons on school facilities – Penalty – Exceptions.
9.41.800 Surrender of weapons or licenses – Prohibition on future possession or licensing.
9.41.810 Penalty.

9.44.080 Misconduct in signing a petition.

9.45.060 Encumbered, leased, or rented personal property – Construction.

9.45.070 Mock auctions.
9.45.080 Fraudulent removal of property.
9.45.090 Knowingly receiving fraudulent conveyance.
9.45.100 Fraud in assignment for benefit of creditors.

9.46.196 Cheating.

9.47A.010 Definition.
9.47A.030 Possession of certain substances prohibited, when.
9.47A.040 Sale of certain substances prohibited, when.
9.47A.050 Penalty.

9.51.010 Misconduct of officer drawing jury.
9.51.020 Soliciting jury duty.
9.51.030 Misconduct of officer in charge of jury.

9.61.230 Telephone harassment.
9.61.240 Telephone harassment – Permitting telephone to be used.
9.61.250 Telephone harassment – Offense, where deemed committed.
9.61.260 Cyberstalking.

9.62.010 Malicious prosecution.
9.62.020 Instituting suit in name of another.

9.66.010 Public nuisance.
9.66.020 Unequal damage.
9.66.030 Maintaining or permitting nuisance.
9.66.040 Abatement of nuisance.
9.66.050 Deposit of unwholesome substance.

9.68.015 Obscene literature, shows, etc. – Exemptions.
9.68.030 Indecent articles, etc.
9.68.050 “Erotic material” – Definitions.
9.68.080 Unlawful acts.
9.68.100 Exceptions to RCW 9.68.050 through 9.68.120.
9.68.110 Motion picture operator or projectionist exempt, when.
9.68.130 "Sexually explicit material" – Defined – Unlawful display.
9.68A.090 Communication with minor for immoral purposes.
9.68A.110 Certain defenses barred, permitted.
9.68A.120 Seizure and forfeiture of property.
9.69.100 Duty of witness of offense against child or any violent offense – Penalty.
9.72.090 Committal of witness – Detention of documents.
9.73.010 Divulging telegram.
9.73.020 Opening sealed letter.
9.73.030 Intercepting, recording or divulging private communication – Consent required – Exceptions.
9.73.050 Admissibility of intercepted communication in evidence.
9.73.070 Persons and activities excepted from chapter.
9.73.080 Penalties.
9.73.090 Certain emergency response personnel exempted from RCW 9.73.030 through RCW 9.73.080 – Standards – Court authorizations – Admissibility.
9.73.100 Recordings available to defense counsel.
9.73.110 Intercepting, recording, or disclosing private communications – Not unlawful for building owner – Conditions.
9.91.010 Denial of civil rights – Terms defined.
9.91.020 Operating railroad, steamboat, vehicle, etc., while intoxicated.
9.91.025 Unlawful bus conduct.
9.91.060 Leaving children unattended in a parked automobile.
9.91.140 Food stamps.
9.91.142 Food stamps – Trafficking.
9.91.160 Personal protection spray devices.
9.91.170 Interfering with dog guide or service animal.

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SECTION 2. - Amendment. Section 9.02.100 of the Kent City Code, entitled “Chapter 16.52 RCW, entitled ‘Prevention of Cruelty to Animals’ – Adoption by reference,” is amended as follows:

Sec. 9.02.100. Chapter 16.52 RCW, entitled “Prevention of Cruelty to Animals” – Adoption by reference. The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW
16.52.011 Definitions – Principles of liability.
16.52.015 Enforcement – Law enforcement agencies and animal care and control agencies.
16.52.080 Transporting or confining in unsafe manner – Penalty.
16.52.090 Docking horses – Misdemeanor.
16.52.095 Cutting ears – Misdemeanor.
16.52.100 Confinement without food and water – Intervention by others.
16.52.117 Animal fighting – Owners, trainers, spectators – Exceptions.
16.52.165 Punishment – Conviction of misdemeanor.
16.52.190 Poisoning animals – Penalty.
16.52.200 Sentences – Forfeiture of animals – Liability for cost – Civil penalty – Education, counseling.
16.52.207 Animal cruelty in the second degree.
16.52.210 Destruction of animal by law enforcement officer – Immunity from liability.
16.52.300 Dogs or cats used as bait – Seizure – Limitation.
16.52.310 Dog breeding – Limit on the number of dogs – Required conditions – Penalty – Limitation of section – Definitions

SECTION 3. - Amendment. Section 9.02.160 of the Kent City Code, entitled “RCW Title 70, entitled ‘Public Health and Safety’ – Adoption by reference,” is amended as follows:

Sec. 9.02.160. RCW Title 70, entitled “Public Health and Safety” – Adoption by reference. The following RCW sections, as
currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

**RCW**

70.54.400  **Miscellaneous health and safety provisions.**

70.74.010  Definitions.
70.74.160  Unlawful access to explosives.
70.74.295  Abandonment of explosives.
70.74.300  Explosive containers to be marked – Penalty.
70.74.310  Gas bombs, explosives, stink bombs, etc.
70.74.400  Seizure and forfeiture.

70.155.080 Purchasing, possessing, or obtaining tobacco by persons under the age of eighteen – Civil infraction – Courts of jurisdiction.

**SECTION 4. – Amendment.** Section 9.36.015 of the Kent City Code, entitled “Driving regulations,” is amended as follows:

**Sec. 9.36.015. Driving regulations.** The following sections of Chapters 46.20 and 46.61 RCW are hereby adopted by reference as currently enacted and as may be amended from time to time, and shall be given the same force and effect as if set forth herein in full.

**RCW**

46.20.005  Driving without a license – Misdemeanor, when.
46.20.015  Driving without a license – Traffic infraction, when.
46.20.270  Conviction of offense requiring withholding driving privilege – Procedures – Definitions.
46.20.720  Ignition interlocks, biological technical devices – Drivers convicted of alcohol offenses.
46.20.730  Ignition interlock device – Other biological or technical device – Definitions.

46.61.5249  Negligent driving – First degree.

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SECTION 5. - 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 6. - Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

SECTION 7. - 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

APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

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PASSED: 16 day of May, 2010.
APPROVED: 18 day of May, 2010.
PUBLISHED: 21 day of May, 2010.

I hereby certify that this is a true copy of Ordinance No. 3957 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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