ORDINANCE NO. 4003

AN ORDINANCE of the City Council of the City of Kent, Washington, amending Title 15, Kent City Code, specifically Section 15.04.170, Section 15.04.190, Section 15.05.100, Section 15.08.020, Section 15.08.040, Section 15.08.050, Section 15.08.100, Section 15.08.160, Section 15.08.205, and Section 15.09.055 [ZCA-2011-01(A)].

RECITALS

A. Local planning legislation arises from many sources, including, but not limited to, Federal, State or regional mandates; changes to local community vision; complaints; need for clarity; updated technologies, business operations or strategies that make existing codes outdated, and conflicts with updated regulations in other City departments.

B. The City has determined that amendments to Title 15, Kent City Code (KCC), are necessary to remove duplications, provide clarifications and correct references or footnotes.

C. The City has determined that an amendment to Section 15.04.170 is necessary to clarify that the side yard requirement for lots created on or before March 22, 2007 is five feet (5'), and, as approved via Ordinance No. 3830 on March 6, 2007, to define the increased setbacks for
half of the lots in plats and short plats created after March 22, 2007, and to clarify the minimum lot widths for plats and short plats that were created after March 22, 2007.

D. Section 15.04.190, footnote 7, which provides for an additional front yard setback, conflicts with the correct requirement in footnote 6.

E. Diagram 2 shown in Section 15.05.100 incorrectly references a twenty-six feet (26') aisle width, which is inconsistent with the correct aisle width of twenty-four feet (24') shown in diagram 1.

F. Section 15.08 020(A)(7) contains an incorrect reference for church daycares and should reference the applicable State law.

G. The City determined that it should clarify under Section 15 08.040(F) that at-home lessons for tutoring, art, dance or music, conducted for more than one student at a time or that include student gatherings, require a Special Home Occupation permit.

H. KCC Chapter 8.05 contains noise regulations; therefore in order to avoid duplication, conflicting regulations and unnecessary confusion, Section 15.08.050(D)(1), also regarding noise regulations, should be deleted.

I. Section 15.04.030(6) allows existing dwellings in commercial and industrial zones to be rebuilt, repaired or otherwise changed for human occupancy; therefore, a reference to Section 15.04.030(6) should be added to Section 15.08.100(D)(2), to eliminate a conflicting interpretation regarding nonconforming development.
J. KCC Chapter 15.02 defines a garage as having a size limitation of 1,000 square feet for the area where vehicles are stored, and this size limit should also be included in the accessory structures regulations of Section 15.08.160(A).

K. The City has developed a car wash kit for temporary car wash operations, and adding this requirement to Section 15.08.205(A)(13) will inform staff and the public that a car wash kit is required for all temporary car washes.

L. The last sentence of Section 15.09.055(D)(1) is a scrivener's error and does not relate to the zoning of annexed land.

M. The Land Use & Planning Board considered this matter at workshops it held on July 11, 2011 and July 25, 2011, and held a public hearing on August 22, 2011 regarding these amendments, and recommended approval of the proposed changes to the zoning code.

N. The Economic & Community Development Committee considered this matter at its September 12, 2011 meeting.

O. The City Council considered this matter at its September 20, 2011 meeting.

P. The City's State Environmental Policy Act (SEPA) Responsible Official has determined that the proposed amendments are procedural in nature and thus categorically exempt from further SEPA review.
P. On July 22, 2011, a request for expedited review was sent to the Washington State Department of Commerce, which acknowledged that the request was received on July 25, 2011. On August 10, 2011, the City was granted expedited review and was informed that it had met the Growth Management Act notice requirements under RCW 36.70A.106.

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

ORDINANCE

SECTION 1. Amendment. Section 15.04.170 of the Kent City Code is amended as follows:

Sec. 15.04.170. Agricultural and residential zone development standards.
### Zoning Districts

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**Additional setbacks to side of buildings:**
- 11 ft (12) (12)
- 13 ft (12) (12)
- 15 ft (12) (12)
- 17 ft (12) (12)
- 19 ft (12) (12)

**Height limitation:**
- 25 ft (11)
- 25 ft (11)
- 25 ft (11)
- 30 ft (11)
- 30 ft (11)

**Minimum impervious surface percent of total parcel area:**
- 40% (19)
- 40% (19)
- 60% (23)
- 60% (23)
- 75% (23)

**Zero lot line and clustering:**
- The provisions in KCC 15.08.300, 15.08.310, 15.08.320, and 15.08.330 shall apply.

**Supervision:**
- The sign regulations of Ch. 15.06 KECC shall apply
- The off-street parking requirements of Ch. 15.05 KECC shall apply.

**Landscape:**
- The landscaping requirements of Ch. 15.07 KECC shall apply.

**Multifamily transition areas:**
- (21)
- (21)
- (21)
- (21)

**Multifamily design criteria:**
- (20)
- (20)
- (20)
- (20)

**Additional standards:**
- (20)
- (20)
- (20)
- (20)

37 For subdivisions and short subdivisions created after March 22, 2007 or altered to comply with zoning and subdivision code amendments effective after March 22, 2007, the minimum lot size shall be three thousand (3,000) square feet. Minimum lot widths shall be measured by scaling a thirty (30) feet diameter circle within the boundaries of the lot provided that such cut-off areas may not be included in the required thirty (30) feet diameter circle. The lot frontage, along private or public streets, shall be a minimum twenty (20) feet in width. Minimum driveway separations shall be ten (10) feet. Shared driveways are permitted. 38 Subdivisions and short subdivisions created or altered prior to March 22, 2002 may have minimum lots twenty-five (25) feet square yards. Fifty (50) percent of the lots within subdivisions and short subdivisions created after March 22, 2007 or altered to comply with zoning and subdivision code amendments effective after March 22, 2007 may have minimum lots twenty-five (25) feet square yards where special side yard measurements are provided. The remaining lots in both side yards for the remaining fifty (50) percent of the lots shall be a minimum six (6) feet, any subdivision with lots less than thirty (30) feet shall require special side yard safety measures.

### SECTION 2. Amendment

Section 15.04.190 of the Kent City Code is amended as follows:

Amend Title 15

Zoning
Sec. 15.04.190. Commercial and industrial zone development standards.

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<th>M1 Industrial Agricultural District</th>
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Amend Title 15
Zoning
6. The minimum front yard setback shall be related to the classification of the adjacent street. This classification shall be determined by the city transportation engineer. The setbacks are as follows:
   a. Properties fronting on arterials and collector streets shall have a minimum setback of forty (40) feet.
   b. Properties fronting on local access streets shall have a minimum setback of thirty (30) feet.
   c. The front yard shall be ten (10) percent of the lot depth. Regardless of lot size, the yard depth need not be more than thirty-five (35) feet.

SECTION 3. - Amendment. Section 15.05.100 of the Kent City Code is amended as follows:

Sec. 15.05.100. Off-street parking plans.

A. Off-street parking plans shall be subject to review and approval by the planning department and city engineer or his/her designee. The planning department shall review plans for compliance with the requirements of this title. The city engineer shall review plans based upon the following criteria:


2. Safety of ingress and egress points.

3. Effects of access on public streets with regard to street capacity, congestion and delay.

4. Compliance with construction standards relating to stormwater runoff.

B. All plans must be complete with the information as requested by the planning director.

DIAGRAM 1. MINIMUM PARKING DESIGN STANDARDS

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Amend Title 15
Zoning
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SECTION 4. - Amendment. Section 15.08.020 of the Kent City Code is amended as follows:

Sec. 15.08.020. Special permit uses.

The following uses are permitted in the several districts in which they are listed as special permit uses provided that they conform to the development standards listed in this section in addition to conforming to the development standards of the zoning district in which the use is located:

A. Churches (excluding drive-in churches, which are conditional uses).

1. Minimum lot area. Minimum lot area is one (1) acre in SR zones; in other zoning districts it shall be the minimum lot area of the underlying district.

2. Front yard. There shall be a front yard of at least twenty (20) feet in depth.
3. **Side yard.** Each side yard shall be a minimum of fifteen (15) feet in width.

4. **Rear yard.** There shall be a rear yard of at least twenty (20) feet in depth.

5. **Ingress and egress.** A separate entrance and exit shall be provided. Loading and unloading areas shall be provided and shall be located off public streets.

6. **Landscaping.** All yard areas must be landscaped.

7. **Day-care centers.** Day-care centers in churches must also provide the required play area as provided in subsection (B) of this section shall comply with State regulations in WAC 388-148-1275.

8. **Parking; signs.** Off-street parking and sign regulations shall be observed.

**SECTION 5. - Amendment.** Section 15.08.040 of the Kent City Code is amended as follows:

**Sec. 15.08.040. Home occupations.**

A. **Purpose.** It is the purpose of this section to outline general conditions in which home occupations may be permitted in all zoning districts. These conditions have been designed to help preserve the residential character of the city's neighborhoods from commercial encroachment while recognizing that certain selected business activities are compatible with residential uses.

B. **Home occupations permitted.** Home occupations which meet the requirements of this section are permitted in every zone where a dwelling unit was lawfully established. The requirements of this section shall not apply to the following home occupations:

1. Home child care.

2. The sale of agricultural products produced on the premises.
C. Development standards. All dwelling units in which a home occupation is located must meet the following minimum development standards:

1. The residential character of the exterior of the building shall be maintained.
2. The outdoor storage or display of materials, goods, products, or equipment is prohibited.
3. A home occupation shall not occupy more than three hundred (300) square feet.
4. The sign regulations of Ch. 15.06 KCC shall apply.

D. Performance standards. All home occupations must meet the following minimum performance standards:

1. Employees. A home occupation may not employ on the premises more than one (1) person who is not a resident of the dwelling unit.
2. Traffic. The traffic generated by a home occupation shall be limited to four (4) two (2) way client-related trips per day and shall not create a need for additional onsite or offsite parking spaces.
3. Sale of goods and services. The sale of goods and services from a home occupation shall be to one (1) customer at a time, by appointment only, between the hours of 7.00 a.m. and 7:00 p.m., Monday through Saturday only.
4. Electrical or mechanical equipment usage. The use of electrical or mechanical equipment that would change the fire rating of the structure or create visual or audible interference in radio or television receivers or electronic equipment or cause fluctuations in line voltage outside the dwelling unit is prohibited.
5. Utility demand. Utility demand for sewer, water, electricity, garbage, or natural gas shall not exceed normal residential levels.
6. Other criteria. There shall be no noise, vibration, smoke, dust, odors, heat, glare, or other conditions produced as a result of the home occupation which would exceed that normally produced by a
single residence, or which would create a disturbing or objectionable
condition in the neighborhood.

E. Permit required. A zoning permit is required as provided in KCC
15.09.020.

F. Special home occupation permits. A special home occupation permit
shall be required for the following home occupations:

1. Music lessons: if more than one student at a time or otherwise
not compliant with the development and performance standards of
KCC 15.08.040(C) and (D).

2. Dance lessons: if more than one student at a time or otherwise
not compliant with the development and performance standards of
KCC 15.08.040(C) and (D).

3. Art lessons: if more than one student at a time or otherwise not
compliant with the development and performance standards of KCC
15.08.040(C) and (D).

4. Academic tutoring: if more than one student at a time or
otherwise not compliant with the development and performance
standards of KCC 15.08.040(C) and (D).

5. Automobile detailing.

A special home occupation permit may only be issued as follows:

1. Application. Applications for a special home occupation permit
under this subsection shall be subject to the procedures and
requirements of Chs. 2.32 and 12.01 KCC. The application fee for a
special home occupation permit shall be the same as for
administrative variances unless otherwise established by city council
resolution.

2. Criteria for approval. In conducting a hearing on an application
for a special home occupation permit, the hearing examiner shall
consider the nature and conditions of all adjacent uses and
structures. A special home occupation permit may only be approved

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by the hearing examiner if the hearing examiner finds that such permit will not be materially detrimental to the public welfare or injurious to the property in the zone or vicinity in which the property is located, and that the issuance of such special home occupation permit will be consistent with the spirit and purpose of this section and subject to the applicable provisions of Ch. 12.01 KCC.

3. **Conditions of approval.** In approving a special home occupation permit, the hearing examiner may impose such requirements and conditions with respect to location, installation, construction, maintenance and operation and extent of open spaces in addition to those expressly set forth in this section, as may be deemed necessary for the protection of other properties in the zone or vicinity and the public interest.

4. **Issuance.** Any special home occupation permit application approved by the hearing examiner shall be forwarded to the planning department for issuance.

5. **Appeal of decision.** The decision of the hearing examiner on a special home occupation permit application shall be final. Any appeal of the hearing examiner’s decision shall be pursuant to the appeal provisions of Ch. 12.01 KCC.

**G. Home occupations prohibited.**

1. The following uses, by the nature of their operation or investment, have a pronounced tendency, once started, to increase beyond the limits permitted for home occupations and impair the use and value of zoning districts where dwelling units are lawfully established. Therefore, the uses listed below shall not be permitted as home occupations:
   
   a. Repair, body repair, building, or servicing of vehicles.

2. Home occupations prohibited by subsection (G)(1) of this section and which were operated lawfully in the city of Kent in compliance
with the provision of this chapter as of the date of passage may continue to operate until October 18, 2004, after which date no prohibited home occupations may lawfully operate in the city of Kent.

**SECTION 6. - Amendment.** Section 15.08.050 of the Kent City Code 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.

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)</th>
<th>Maximum-Permitted Sound-Pressure</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>Amend Title 15 Zoning</td>
</tr>
<tr>
<td>Level (decibels)</td>
<td>Airplane (20 second)</td>
</tr>
<tr>
<td>-----------------</td>
<td>----------------------</td>
</tr>
<tr>
<td>75</td>
<td>75</td>
</tr>
<tr>
<td>70</td>
<td>75—150</td>
</tr>
<tr>
<td>64</td>
<td>150—300</td>
</tr>
<tr>
<td>59</td>
<td>300—600</td>
</tr>
<tr>
<td>53</td>
<td>600—1,200</td>
</tr>
<tr>
<td>47</td>
<td>1,200—2,400</td>
</tr>
<tr>
<td>40</td>
<td>2,400—4,800</td>
</tr>
<tr>
<td>34</td>
<td>4,800—10KC</td>
</tr>
</tbody>
</table>

**TABLE II:**
CORRECTION IN MAXIMUM PERMITTED SOUND-PRESSURE LEVEL IN DECIBELS TO BE APPLIED TO TABLE I

### Correction in Decibels

<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.

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12. Vibration. No vibration shall be permitted which is discernible without instruments at the points of measurement specified in this section.

23. 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.

34. 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.

45. 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.
56. **Fire and explosion hazards.** The relevant provisions of federal, state and local laws and regulations shall apply.

67. **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.

78. **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 compliance with state and federal regulations and Ch. 7.14 KCC.

89. **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 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;
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

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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 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 above ground 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 7. - Amendment.** Section 15.08.100 of the Kent City Code is amended as follows:

**Sec. 15.08.100. Nonconforming development.**

A. Purpose. The intent and purpose of this section is to:

1. Ensure reasonable opportunity for use of legally created lots which do not meet current minimum requirements for the district in which they are located.

2. Ensure reasonable opportunity for use, maintenance, and improvement of legally constructed buildings, structures, and site development features which do not comply with current minimum requirements for the district in which they are located.
3. Ensure reasonable opportunity for continuation of legally established uses which do not conform to use regulations for the district in which they are located.
4. Encourage the eventual replacement of nonconforming uses having potentially undesirable impacts on conforming uses.
5. Encourage the eventual upgrading of nonconforming buildings, structures, and site development features which do not comply with current minimum requirements for the district in which they are located.

B. Applicability. Nonconforming uses, structures, lots, or signs are not favored by law and this title, and it is to avoid injustice that this title accepts such elements. To benefit from the protection given to nonconforming development, such use, structure, or sign must have been lawfully established pursuant to a county resolution in effect at the time of annexation which rendered it nonconforming, or it must have been lawfully established prior to the effective date of this chapter or subsequent amendments thereto, or lawfully established prior to the purchase or condemnation of right-of-way by the city of Kent. This section distinguishes between and defines nonconforming uses, major nonconforming buildings and structures, minor nonconforming buildings and structures, nonconforming lots of record and nonconforming signs. Different requirements are made applicable to each of these categories. The degree of restriction made applicable to each separate category is dependent upon the degree to which that category of nonconformance is a nuisance or incompatible with the purpose and requirements of this title.

C. Nonconforming uses.

1. Applicability of restrictions. Regulations applicable to nonconforming uses are in addition to regulations applicable to nonconforming structures, lots, and signs, and in the event of any conflict the most restrictive provisions shall apply.
2. Expansion of nonconforming uses. No existing building, structure, or land devoted to a nonconforming use shall be expanded, enlarged, extended, reconstructed, intensified, or structurally altered unless the use thereof is changed to a use permitted in the district in which such building, structure, or land is located except as follows: When authorized by conditional use permit, a nonconforming use may be expanded, enlarged, extended, reconstructed, intensified, or structurally altered.

3. Change of nonconforming use. When authorized by the planning manager, a nonconforming use may be changed to a use of a like or more restrictive nature.

4. Extension of nonconforming use. When authorized by the planning manager, a nonconforming use may be extended throughout those parts of a building which were manifestly designed or arranged for such use prior to the date when such use of such building became nonconforming, if no structural alterations except those required by law are made therein.

5. Discontinuance of nonconforming use. When a nonconforming use of land or a nonconforming use of all or part of a structure is discontinued or abandoned for a period of six (6) months, such use shall not be resumed, notwithstanding any reserved intent not to abandon such use. Normal seasonal cessation of use, or temporary discontinuance for purposes of maintenance or improvements, shall not be included in determination of the six (6) month period of discontinuance.

6. Reversion to nonconforming use. If a nonconforming use is changed to a permitted use, the nonconforming use shall not be resumed.

7. Residential exception to nonconforming use status. Legally established residential uses located in any residential zoning district

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shall not be deemed nonconforming in terms of density provisions and shall be a legal use.

8. Exception for certain drive-through banking facilities. Legally established bank buildings with drive-through facilities in the downtown commercial zoning district that existed prior to August 9, 1992, shall not be nonconforming; however, these drive-through facilities may not be expanded beyond that which existed on August 9, 1992, when the city prohibited bank drive-through facilities in DC zones.

D. Nonconforming buildings and structures.

1. Applicability of restrictions. Regulations applicable to nonconforming structures are in addition to regulations applicable to nonconforming uses, lots, and signs, and in the event of any conflict the most restrictive provisions shall apply.

2. Major nonconforming buildings and structures. Except as allowed in 15.04.030(6), no major nonconforming structure may be expanded, enlarged, extended, reconstructed, or structurally altered or changed, nor may any major nonconforming building, structure, or lot be occupied after discontinuance of change in use, unless the structure, use, and associated grounds and development are brought into compliance with use and minimum development standards of the district in which such structure is located, except as follows:

a. Any major nonconforming structure damaged by fire, flood, explosion, wind, earthquake, war, riot, or other natural disaster, may be restored, reconstructed, and used as before; provided, that the work be vested by permit application within one (1) year of such happening; any restoration or reconstruction not vested by permit application within twelve
(12) months from the date of the fire or other casualty shall be deemed abandoned and not allowed to be restored.

b. Such repairs and maintenance work as required to keep the structure in sound condition may be made to a major nonconforming structure, provided no such structural alterations shall be made except such as are required by law or ordinance or authorized by the planning manager.

3. Minor nonconforming buildings and structures. No minor nonconforming structure may be expanded, enlarged, extended, reconstructed or otherwise structurally altered or changed, nor may any minor nonconforming building, structure, or lot be occupied after discontinuance or change in use, unless the structure and associated grounds and development are brought into compliance with the minimum development standards of the district in which such structure is located, except as follows:

a. Any minor nonconforming structure damaged by fire, flood, explosion, wind, earthquake, war, not, or other natural disaster, may be restored, reconstructed and used as before; provided, that the work be vested by permit application be completed within one (1) year of such happening; any restoration or reconstruction vested by permit application twelve (12) months from the date of the fire or other casualty shall be deemed abandoned and not allowed to be restored.

b. Such repairs and maintenance work as required to keep the structure in sound condition may be made to a minor nonconforming structure, provided no such structural alterations shall be made except such as are required by law or ordinance or authorized by the planning manager.
4. Planning manager's authority. The planning manager may waive specific development standard requirements or impose additional requirements when all the following criteria are met:

a. When owing to special circumstances a literal enforcement of the provisions of this title or other land use regulatory ordinances of the city will result in unnecessary hardship.
b. When the waiver of development requirements is in harmony with the purpose and intent of city ordinances and the comprehensive plan.
c. When the proposed use, building, and development will function without adverse impact upon adjacent property, development in the area or the city as a whole.
d. When a conditional use permit is not required.

E. Nonconforming lots.

1. Applicability of restrictions. Regulations applicable to nonconforming lots are in addition to the regulations applicable to nonconforming uses, structures, and signs, and, in the event of conflict, the most restrictive provisions shall apply.

2. Nonconforming lots of record.

a. Residential districts.

(1) In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record as of June 20, 1973, notwithstanding limitations imposed by other provisions of this title. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width that are generally applicable in the district; provided, that yard

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dimensions and requirements other than those applying to area or width of the lot shall conform to the regulations for the district in which such lot is located.

(2) In all single-family zoning districts, with the exception of the SR-8 zoning district, if two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record prior to June 20, 1973, and if all or part of the lots do not meet the minimum requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this title, and no portion of the parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this title, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this title.

(3) In the SR-8 zoning district, if two (2) or more single-family zoned lots or combination of lots and portions of lots with continuous frontage in single ownership are of record prior to June 20, 1973, and if all or part of the lots do not meet the following minimum requirements established for lot width, lot area, and topography, the land involved shall be considered to be an undivided parcel for the purposes of this title, and no portion of the parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this title, nor shall any division of any parcel be made which

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creates a lot with width or area below the requirements stated in this title.

(a) Minimum lot area: Four thousand six hundred (4,600) square feet.
(b) Minimum lot width: Forty (40) feet.
(c) Maximum site slope: Fifteen (15) percent.

(4) In any district in which duplex dwellings are permitted, a duplex dwelling and customary accessory buildings may be erected on any single lot of record as of June 20, 1973, with a minimum area of seven thousand two hundred (7,200) square feet, notwithstanding limitations imposed by other provisions of this title. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width that are generally applicable in the district; provided, that yard dimensions and requirements other than those applying to area or width of the lot shall conform to the regulations for the district in which such lot is located.

b. Other districts. In any other district, permitted building and structures may be constructed on a nonconforming lot of record, provided site coverage, yard, landscaping, and off-street parking requirements are met. Such lots must be in separate ownership and not of continuous frontage with other lots in the same ownership prior to June 20, 1973, and if all or part of the lots do not meet the minimum requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this
title, and no portion of the parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements as established by this title, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this title.

F. Nonconforming signs.

1. Applicability of restrictions. Regulations applicable to nonconforming signs are in addition to regulations applicable to nonconforming uses, structures, and lots, and in the event of conflict the most restrictive provisions shall apply.

2. Continuation of nonconforming signs.

   a. Signs that were legally existing as of the effective date of this title or subsequent amendments thereto that do not conform to the regulations of this title shall be considered nonconforming signs. Nonconforming signs may not be moved, relocated, altered, or added to without receiving approval from the planning services office.

   b. No sign permit shall be issued to allow legal signs on property having an illegal or nonconforming sign until such time as the nonconforming or illegal sign is modified to conform to this title.

3. Amortization period.

   a. Abandoned signs. Abandoned signs must be removed within ninety (90) days.

   b. Number and type of signs. The number and type of allowable signs for each occupancy must conform to the regulations of this title.

SECTION 8. - Amendment. Section 15.08 160 of the Kent City Code is amended as follows:

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Sec. 15.08.160. Accessory buildings.

A. An accessory building can be located anywhere on a lot if it conforms with the setbacks required by this title for a principal building. In the rear one-half (1/2) of a lot the accessory building can be built to within two (2) feet of the side and rear lot lines, except when attached to a principal building, in which case it must have the same setbacks as the main building. Garages or carports are limited to one thousand (1,000) square feet in area where motor vehicles used by the tenants of the buildings on the premises are stored or kept.

B. Guesthouse accessory buildings shall be located on the rear half of the building site. There shall be not more than one (1) guesthouse on any one (1) building site, which, together with other accessory buildings, shall not exceed thirty (30) percent of the area of the rear yard on which it is built. No kitchen or cooking facilities shall be permitted in any guesthouse.

SECTION 9. – Amendment. Section 15.08.205 of the Kent City Code is amended as follows:

Sec. 15.08.205. Temporary use regulations.

This section shall be known as the temporary use regulations. Provisions authorizing temporary uses are intended to permit occasional temporary uses, activities and structures when consistent with the purpose of this title and when compatible with the general vicinity and adjacent uses.

A. Permitted uses. The following types of temporary uses, activities and associated structures may be authorized, subject to specific limitations in this section and such additional conditions as may be established by the planning director:

1. Model homes or apartments and related real estate sales and display activities located within the subdivision or residential development to which they pertain.
2. Contractor's office, storage yard and equipment parking and servicing on the site of an active construction project.
3. Circuses, carnivals, rodeos, fairs or similar transient amusement or recreational activities.
4. Indoor or outdoor art and craft shows and exhibits.
5. Christmas tree sales lots, fireworks and flower stands, limited to location on lots not used for residential purposes in commercial or industrial zoning districts.
6. Mobile home residences used for occupancy by supervisory and security personnel on the site of an active construction project.
7. Mobile home residential units used for occupancy of security personnel when not otherwise allowed as an accessory use.
8. Indoor or outdoor special sales, including swap meets, flea markets, parking lot sales, warehouse sales or similar activities, limited to locations on lots not used for residential purposes in commercial or industrial districts, and when operated not more than ten (10) days in the same month, unless otherwise permitted by the city.
9. Temporary use of mobile trailer units or similar portable structures for nonresidential purposes, located in districts where the use is a permitted use.
10. Seasonal retail sales of agricultural or horticultural products raised or produced off the premises, to be permitted in commercial or industrial zoning districts only.
11. Temporary signs relating directly to the temporary uses described in this section, which may be permitted for a period not to exceed the operation of the use. The signs may be portable in nature and must be placed on the premises. No off-premises signs are permitted. No more than two (2) signs per use shall be permitted and no sign shall exceed a thirty-two (32) square feet
total of all faces. Maximum sign height shall be eight (8) feet. No sign permit shall be required.

12. Garage sales, moving sales and similar activities for the sale of personal belongings when operated not more than three (3) days in the same week or more than twice in the same calendar year. No permit is required.

13. Fund-raising carwashes. No permit is required, however, a car wash kit from Public Works Operations is required.

14. The planning director may authorize additional temporary uses not listed in this subsection when it is found that the proposed uses are in compliance with the requirements and findings of subsection (C) of this section.

B. Conditions of temporary use.

1. Each site occupied by a temporary use shall be left free of debris, litter or other evidence of temporary use upon completion or removal of the use.

2. A temporary use conducted in a parking facility shall not occupy or remove from availability more than twenty-five (25) percent of the spaces required for the permanent use, except in the downtown commercial (DC-1) zoning district or as approved by the city council.

3. Each site occupied by a temporary use must provide or have available sufficient off-street parking and vehicular maneuvering area for customers. Such parking need not comply with the development requirements of Ch. 15.05 KCC, but must provide safe and efficient interior circulation and ingress and egress from the public right-of-way.

4. No temporary use shall occupy or use public rights-of-way, parks or other public lands in any manner unless specifically approved by the city council.

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5. No temporary use shall occupy a site or operate within the city for more than ninety (90) days within any calendar year, except as follows:

   a. When authorized by the planning director, a temporary use may operate an additional ninety (90) days if it is found that such an extension will be consistent with the requirements of subsection (C) of this section.

   b. When authorized by the hearing examiner, a temporary use may operate an additional one (1) year if it is found that such an extension will be consistent with the requirements of subsection (C) of this section.

6. All signs shall comply with the requirements of Ch. 15.06 KCC, pertaining to sign regulations, except as otherwise specified in this section.

7. All temporary uses shall obtain, prior to occupancy of the site or culmination of activities, all required city permits, licenses or other approvals, e.g., business license, building permit, zoning permit, etc.

8. The planning director may establish such additional conditions as may be deemed necessary to ensure land use compatibility and to minimize potential impacts on nearby uses. These include but are not limited to time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening or enclosure, and guarantees for site restoration and cleanup following temporary use.

C. Determinations. The planning director may authorize the temporary uses described in subsection (A) of this section after consultation and coordination with all other applicable city departments and other agencies and only when the following determinations can be made:
1. The temporary use will not impair the normal, safe and effective operation of a permanent use on the same site.
2. The temporary use will be compatible with uses in the general vicinity and on adjacent properties.
3. The temporary use will not impact public health, safety or convenience, or create traffic hazards or congestion, or otherwise interrupt or interfere with the normal conduct of uses and activities in the vicinity.
4. The use and associated structures and living quarters will be conducted and used in a manner compatible with the surrounding area.
5. The temporary use shall comply with all applicable standards of the Seattle King County health department.

D. Application and authorization.
1. Application to conduct a temporary use shall be made to the planning department, and shall include such information as the planning director may require to evaluate the use and to make the determinations required by this section.
2. Application shall be made prior to the requested date for commencement of the temporary use, and the planning director shall make a determination whether to approve, approve conditionally or deny the temporary use within ten (10) days after the date of application.
3. Authorization of a temporary use shall be by issuance of a zoning permit.
4. A temporary use authorized pursuant to this section shall not be exempted or relieved from compliance with any other ordinance, law, permit or license applicable to such use, except where specifically noted.
SECTION 10. - Amendment. Section 15.08 205 of the Kent City Code is amended as follows:

Sec. 15.09.055. Zoning of annexed lands.

A. Purpose. It is the purpose of this section to provide a procedure to ensure that the initial zoning of annexed territories is in conformance with city goals, policies and plans.

B. Determination of planning director. Whenever the council shall determine that the best interest and general welfare of the city would be served by annexing territory, the planning director will cause an examination to be made of the comprehensive plan of the city. If the city council determines that the comprehensive plan is not current for the area of the proposed annexation, the planning director will cause an application to be made to the land use and planning board for an update of the comprehensive plan. In addition, the planning director will cause an application to be filed with the land use and planning board for an initial zoning recommendation.

C. Recommendation of the land use and planning board.

1. Comprehensive plan. Upon application by the planning director, the land use and planning board shall hold at least one (1) open record public hearing to consider the comprehensive plan for the area of the proposed annexation. Notice of the time, place and purpose of such hearing shall be mailed to all property owners in the area to be annexed and given by publication in a newspaper of general circulation in the city and in the area to be annexed at least ten (10) calendar days prior to the hearing. Upon completion of the hearing, the land use and planning board shall transmit a copy of its recommendations for the comprehensive plan to the council for its consideration.
2. Initial zoning. In addition, the land use and planning board shall hold at least one (1) open record public hearing to consider the initial zoning for the area of the proposed annexation. Notice of the time, place and purpose of such hearing shall be mailed to all property owners in the area to be annexed and given by publication in a newspaper of general circulation in the city and in the area to be annexed at least ten (10) calendar days prior to the hearing.

D. City council action.

1. Comprehensive plan. Within sixty (60) calendar days of the receipt of the recommendation from the land use and planning board for the comprehensive plan for the area of the proposed annexation, the city council shall consider the comprehensive plan at a public meeting. The council may approve or disapprove the comprehensive plan as submitted, modify and approve as modified, or refer the comprehensive plan back to the land use and planning board for further proceedings. If the matter is referred to the land use and planning board, the council shall specify the time within which the land use and planning board shall report back to the council with findings and recommendations on the matters referred to it. An affirmative vote of not less than a majority of the total members of the council shall be required for approval.

2. Initial zoning. Upon receipt of the recommendations of the land use and planning board for the initial zoning of the area of the proposed annexation, the council shall hold two (2) or more public hearings at least thirty (30) calendar days apart. Notice of the time and place and purpose of such hearing shall be given by publication in a newspaper of general circulation in the city and in the area to be annexed at least ten (10) calendar days prior to the hearing. The
ordinance adopting the initial zoning may provide that it will become effective upon the annexation of the area into the city. The city clerk shall file a certified copy of the ordinance and any accompanying maps or plats with the county auditor.

SECTION 11. - Savings. The existing portions of Title 15 of the Kent City Code which are repealed and replaced by this ordinance, shall remain in full force and effect until the effective date of this ordinance.

SECTION 12. - 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 13. - 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 14. - 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

Brenda Jacober, City Clerk

Amend Title 15 Zoning
APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

PASSED: 20 day of September, 2011.
APPROVED: 20 day of September, 2011.
PUBLISHED: 23 day of September, 2011.

I hereby certify that this is a true copy of Ordinance No. 4003 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

Amend Title 15 Zoning