AN ORDINANCE of the City Council of the City of Kent, Washington, amending Section 9.36 of the Kent City Code, entitled "Traffic Code," adding duties of an operator of a motor vehicle in case of an accident with a pedestrian or vehicle propelled by human power.

RECITALS

A. The Revised Code of Washington (RCW) 46.52.020 states it is a crime for a motor vehicle driver to leave the scene of an accident if he or she struck and injured a pedestrian. Such crime is punishable as a Class "C" Felony.

B. The Kent law department criminal division has seen a number of cases involving a motor vehicle vs. a pedestrian that apparently do not meet the filing guidelines for the King County prosecutor's office.

C. In the past, the city of Kent's police department cites such felonies as "attempted" in order to file them in a court of limited jurisdiction (e.g. Kent Municipal Court); however, citing this crime as an "attempted" charge creates a circumstance where proving the crime to a jury would be extremely difficult.

Amend KCC 9.36
Amend Traffic Code - Ordinance
The city of Kent wishes to add the duty to stop and determine the physical condition of a pedestrian in the case of an accident with a pedestrian or vehicle propelled by human power to the Kent City Code so that prosecution of the offense is clearly defined for ease of prosecution.

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

ORDINANCE

SECTION 1. - New Section. Section 9.36.075 is added to Chapter 9.36, to read as follows:

Sec. 9.36.075. Duty in the case of accident with pedestrian or vehicle propelled by human power. The operator of any motor vehicle involved in an accident with a pedestrian, or with a device propelled by human power operated by any person, or upon which a person is seated, shall do the following:

1. Immediately stop such vehicle at the scene of such accident, or as close thereto as possible, and return to and remain at the scene of such accident until he or she has given his or her name, address, insurance company, insurance policy number, and vehicle license number, and exhibit his or her operator's license to the pedestrian or person operating the device propelled by human power, or, if they are unconscious or incompetent, provide the same information to another person who he or she reasonably believes is acting on their behalf; or, if the pedestrian or person operating the device propelled by human power is unconscious or incompetent, and there is no one to act on their behalf, shall immediately, or as soon as possible, call 9-1-1 to summon emergency services to the scene.
2. Under no circumstances shall the rendering of assistance or other compliance with the provisions of this section be evidence of liability of any motor vehicle operator of such accident.

For the purposes of this section, "Pedestrian" means any person who is afoot or who is using a wheelchair, a power wheelchair, an electric personal assistive mobility device, or a means of conveyance propelled by human power. "Motor Vehicle" shall be as defined in RCW 46.04.320.

Violation of this section is a gross misdemeanor the maximum penalty of which is three-hundred and sixty-four (364) days in jail and a five-thousand dollar ($5,000) fine.

SECTION 2. – 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; ordinance, section, or subsection numbering; or references to other local, state or federal laws, codes, rules, or regulations.

SECTION 3. – Severability. If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, that decision shall not affect the validity of the remaining portion of this ordinance and that remaining portion shall maintain its full force and effect.

SECTION 4. – Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage and publication, as provided by law.
ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

PASSED: 17 day of April, 2012.
APPROVED: 17 day of April, 2012.
PUBLISHED: 20 day of April, 2012.

I hereby certify that this is a true copy of Ordinance No. 4033 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