ORDINANCE NO. 4185

AN ORDINANCE of the City Council of the City of Kent, Washington, amending portions of Chapters 15.02 and 15.04 of the Kent City Code, including adding a new Section 15.02.203; pertaining to the definitions and development regulations applicable to assisted living facilities and independent senior living facilities. (DKT-2014-5.)

RECITALS

A. Pursuant to RCW 36.70A.470, the Growth Management Act (GMA) requires that the City establish a docketing process as a means for the public to suggest changes or identify deficiencies in City plans and regulations. The docketing process is set forth in Section 12.02.025 of the Kent City Code (KCC).

B. On September 2, 2014, a docket item was submitted to the City, requesting a change in how "assisted living facilities" are defined for the purpose of locating them in commercial areas without a mixed use component. This was designated Docket No. DKT-2014-5. Staff recommended that this docket item not be included in the 2015 work program for the Economic and Community Development Department ("Department") at that time.
C. On November 10, 2014, the Economic and Community Development Committee passed a motion accepting the staff recommendation (revised to include DKT-2014-5 in the 2015 work program) to approve the 2014 Annual Docket Report as presented.

D. On November 18, 2014, the City Council authorized the Mayor to accept the Economic and Community Development Committee recommendations on the 2014 Annual Docket Report.

E. Kent has a growing population of seniors, and nationwide research suggests that this demographic will be healthier and more mobile than previous generations of seniors. Experts describe a trend towards senior living in walkable urban areas with nearby amenities, while isolated institutional-type facilities are considered less humane.

F. Current mixed use requirements in city code reflect a policy decision that multifamily or multi-unit developments should include on-site commercial uses.

G. On August 24, 2015, Department staff presented an overview of current research on aging, background on types of senior living facilities, facility design, and land use trends, to the Land Use and Planning Board ("LUPB") at a workshop meeting.

H. On October 12, 2015, Department staff recommended to the Economic and Community Development Committee that the 2014 Docket Report be amended in order to, among other things, include DKT-2014-5 in the 2015 work program. At this October 12, 2015 meeting, Department staff further presented a two-phased project scope to the Economic and Community Development Committee: the first phase included clarification of “assisted living facilities” and adding flexible locational criteria; the
second phase included addressing broader issues about mixed use requirements for multifamily developments and independent senior living facilities in commercial zones. The Committee recommended approval of this two-phased approach.

I. On October 26, 2015, the LUPB held a public hearing, during which Department staff presented code amendment options, including new locational criteria, to the LUPB. At the conclusion of the hearing, the LUPB directed staff to analyze independent senior living facilities in the first phase of the project, instead of delaying it until the second phase. Furthermore, the LUPB Chair formed a subcommittee to tour a number of elder care facilities to better understand the issues involved. Staff updated the Economic and Community Development Committee on the project on November 9, 2015.

J. On October 8, 2015, the City requested expedited review under RCW 36.70A.106 from the Washington State Department of Commerce regarding the City’s proposed code amendments related to development regulations applicable to elder care facilities. The Washington State Department of Commerce granted the request for expedited review on October 26, 2015. No comments were received from State agencies.

K. On October 15, 2015, the City conducted and completed environmental review under the State Environmental Policy Act (SEPA).

L. On January 11, 2016, Department staff presented code amendment options, including new definitions to more clearly distinguish different elder care facility types to the LUPB, at a workshop meeting. The options included locational criteria to achieve mixed use goals through proximity to other uses, rather than requiring a mix of uses on site. After holding a public hearing on January 25, 2016, the LUPB recommended modification
of the proposed code amendments, as presented by staff, to exclude requirements to provide commercial components or nearby amenities.

M. The Economic and Community Development Committee considered the recommendations of the LUPB at its regularly-scheduled meeting on February 8, 2016, and recommended to the full City Council passage of the proposed code amendments as recommended by staff with a modification to the distance required for proximity to mix of uses.

N. At its regularly-scheduled meeting on February 16, 2016, the City Council voted to adopt the amendments to portions of Chapters 15.02 and 15.04 of the Kent City Code, pertaining to assisted living facilities and independent senior living facilities.

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

ORDINANCE

SECTION 1. - New Section. Chapter 15.02 of the Kent City code is amended by adding a new section 15.02.203 to read as follows:

Sec. 15.02.203. Independent senior living facility. Independent senior living facility means a multi-dwelling-unit facility that provides housing, communal areas, and limited basic services (including a variety of social and transportation services) to individuals 60 or more years of age who choose to live in a congregate setting. These facilities consist of individual dwelling units that contain separate bathroom facilities, and which also may contain a full kitchen, partial kitchen, or no kitchen. Communal areas include: a dining room in which at least one meal per day is served; social and activity areas; laundry facilities; and open spaces. This definition does not include senior housing that does not provide
meals, assisted living facilities, group homes, or residential facilities with health care.

**SECTION 2. - Amendment.** Section 15.02.026.1 of the Kent City Code is amended as follows:

**Sec. 15.02.026.1. Assisted living facility.** Assisted living facility means an establishment that has the express or implied purpose of providing housing and basic services (such as laundry, housekeeping, meals, and activities), and assuming general responsibility for the safety and well-being of the residents, and that may also provide domiciliary (home or personal) care, provides living quarters and a variety of limited personal care and supportive health care monitoring to more than ten (10) individuals who may be unable to live independently due to infirmity of age, or physical or mental handicap, but who do not need the skilled nursing care of a convalescent home or a residential facility with health care. These facilities may consist of individual dwelling units, with separate bathroom facilities, a full—kitchen, partial kitchen, or no kitchen. For purposes of In addition, these facilities may have communal dining areas, recreation facilities (library, lounge, game room), laundry facilities and open space. An assisted living facility is a state-licensed residential facility pursuant to Chapter 18.20 RCW, as amended, but not a group home or a residential facility with health care.

**SECTION 3. - Amendment.** Section 15.02.125 of the Kent City Code is amended as follows:

**Sec. 15.02.125. Dwelling, multiple-family.** Multiple-family dwelling means a residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided. This definition also—includes
independent senior housing for individuals sixty- (60)- years or older does not include independent senior living facilities.

**SECTION 4. - Amendment.** Section 15.02.335.3 of the Kent City Code is amended as follows:

**Sec. 15.02.335.3. Residential facility with health care.** Residential facility with health care means a medically staffed facility intended for the long-term residential care of more than ten—(10)—handicapped individuals who, because of age or medical condition, are incapable of independent living. This definition also includes nursing homes, as defined in RCW 18.51.010, and continuing care retirement communities as defined in RCW 70.38.025, but does not include group homes.

**SECTION 5. - Amendment.** Section 15.04.020 of the Kent City Code is amended as follows:

**15.04.020 Residential land uses.**
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Amend KCC 15.02 and 15.04 -
Re: Elder Care
**SECTION 6. - Amendment.** Section 15.04.030 of the Kent City Code is amended as follows:

**Sec. 15.04.030. Residential land use development conditions.**

1. Dwelling units, limited to not more than one per establishment, for security or maintenance personnel and their families, when located on the premises where they are employed in such capacity. No other residential use shall be permitted.

2. Multifamily residential uses, or other residential facilities where allowed, shall be permitted only on the land use overlay, and must be included within a mixed use development.

9 **Amend KCC 15.02 and 15.04 - Re: Elder Care**
3. Assisted living facilities, residential facilities with health care, and independent senior living facilities, when not combined with commercial or office uses, require a conditional use permit and are subject to the requirements of KCC 15.09.045 for multifamily design review and mixed use design review, as well as area-specific design review, such as in Midway, Downtown and along the Meeker Street Corridor. These facilities are also subject to the following conditions:

   a. Must be located within a half mile of publicly-accessible amenities in at least three of the following categories, as determined by the economic and community development director. The distance shall be measured as the shortest straight-line distance from the property line of the proposed facility to the property line of the entities listed below:

      i. Public park or trail, as identified in the City’s most recently-adopted Park and Open Space Plan, or owned or maintained by any agency of the state, or any political subdivision thereof;

      ii. Preschool, elementary, or secondary school (public or private);

      iii. Indoor recreational center (community center, senior center, physical recreation facility, bingo or casino hall);

      iv. Church, religious institution, or other place of worship;

      v. Cultural arts center (theater, concert hall, artistic, cultural, or other similar event center);

      vi. Retail services, including, but not limited to: medical services; food and beverage establishments; shopping centers; or other commercial services that are relevant (reasonably useful or germane) to the residents of the proposed facility, as determined by the City’s economic and community development director.

   b. Alternatively, if the facility provides amenities in one or more of the categories listed in 15.04.030(a) on the ground floor of the facility itself, oriented towards the public (meaning that they are visible,
accessible and welcoming), the number of other amenities to which a half-mile proximity is required may be reduced, at the discretion of the City’s economic and community development director.

4. Multifamily residential uses, or other residential facilities where allowed, when established in buildings with commercial or office uses, and not located on the ground floor.

5. Multifamily residential uses, or other residential facilities where allowed, when not combined with commercial or office uses.

6. Existing dwellings may be rebuilt, repaired, and otherwise changed for human occupancy. Accessory buildings for existing dwellings may be constructed subject to the provisions of KCC 15.08.160.

7. Transitional housing facilities, limited to a maximum of 20 residents at any one time, plus up to four resident staff.

8. Accessory structures composed of at least two walls and a roof, not including accessory uses or structures customarily appurtenant to agricultural uses, are subject to the provisions of KCC 15.08.160.

9. Farm dwellings appurtenant to a principal agricultural use for the housing of farm owners, operators, or employees, but not accommodations for transient labor.

10. Accessory dwelling units shall not be included in calculating the maximum density. Accessory dwelling units are allowed only on the same lot with a principally permitted detached single-family dwelling unit, and are subject to the provisions of KCC 15.08.160 and 15.08.350.
11. Customary incidental home occupations subject to the provisions of KCC 15.08.040.

12. [Reserved].

13. Subject to the combining district requirements of the mobile home park code, Chapter 12.05 KCC.

14. Accessory living quarters are allowed per the provisions of KCC 15.08.359.

15. [Reserved].

16. Recreational vehicle storage is permitted as an accessory use in accordance with KCC 15.08.080.

17. Accommodations for farm operators and employees, but not accommodations for transient labor.

18. Other accessory uses and buildings customarily appurtenant to a permitted use, except for onsite hazardous waste treatment and storage facilities, which are not permitted in residential zones.

19. The following zoning is required to be in existence on the entire property to be rezoned at the time of application for a rezone to an MR-T zone: SR-8, MR-D, MR-G, MR-M, MR-H, NCC, CC, GC, DC, or DCE.

20. All multifamily townhouse developments in an MR-T zone shall be recorded as townhouses with ownership interest, as defined in KCC 15.02.525.1, prior to approval of a certificate of occupancy by the city.
21. [Reserved].

22. One duplex per lot is permitted.

23. Secure community transition facilities are only permitted within the boundaries depicted on the following map, and only with a conditional use permit:

![Map of secure community transition facilities]

24. A secure community transition facility shall also comply with applicable state siting and permitting requirements pursuant to Chapter 71.09 RCW. Secure community transition facilities are not subject to the siting criteria of KCC 15.08.280 for class III group homes, but they are subject to a 600-foot separation from any other class II or III group home. In no case shall a secure community transition facility be sited adjacent to, immediately across the street or parking lot from, or within the line of sight of risk potential activities or facilities in existence at the time a site is listed for consideration. **Within line of sight** means that it is
possible to reasonably visually distinguish and recognize individuals. For the purposes of granting a conditional use permit for siting a secure community transition facility, the hearing examiner shall consider an unobstructed visual distance of 600 feet to be within line of sight. During the conditional use permit process for a secure community transition facility, line of sight may be considered to be less than 600 feet if the applicant can demonstrate that visual barriers exist or can be created that would reduce the line of sight to less than 600 feet. This distance shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property or parcel upon which the proposed use is to be located, to the nearest point of the parcel or property or the land use district boundary line from which the proposed use is to be separated. For the purpose of granting a conditional use permit for a secure community transition facility, the hearing examiner shall give great weight to equitable distribution so that the city shall not be subject to a disproportionate share of similar facilities of a state-wide, regional, or county-wide nature.

25. A designated manufactured home is a permitted use with the following conditions:

   a. A designated manufactured home must be a new manufactured home;

   b. The designated manufactured home shall be set upon a permanent foundation, as specified by the manufacturer, and the space from the bottom of the home to the ground shall be enclosed by concrete or an approved concrete product that can be either load bearing or decorative;

   c. The designated manufactured home shall comply with all city design standards applicable to all other single-family homes;
d. The designated manufactured home shall be thermally equivalent to the State Energy Code; and

e. The designated manufactured home shall meet all other requirements for a designated manufactured home as defined in RCW 35.63.160.

26. Multifamily dwellings shall be allowed only within the Kent downtown districts outlined in the Downtown Subarea Action Plan and shall be condominiums recorded pursuant to Chapter 64.32 or 64.34 RCW or similar dwelling units with ownership interest and recorded as such prior to approval of a certificate of occupancy by the city.

27. Within subdivisions, as defined by KCC 12.04.025, vested after March 22, 2007, or altered to comply with zoning and subdivision code amendments effective after March 22, 2007, 25 percent of the total number of permitted dwelling units may be duplex or triplex townhouse structures.

28. Live-work units; provided, that the following development standards shall apply for live-work units, in addition to those set forth in KCC 15.04.190:

a. The unit shall contain a cooking space and sanitary facility in conformance with applicable building standards;

b. Adequate and clearly defined working space must constitute no less than 50 percent of the gross floor area of the live-work unit. Said working space shall be reserved for and regularly used by one or more persons residing there;

c. At least one resident in each live-work unit shall maintain at all times a valid city business license for a business on the premises;
d. Persons who do not reside in the live-work unit may be employed in the live-work unit when the required parking is provided;

  e. Customer and client visits are allowed when the required parking is provided;

  f. No portion of a live-work unit may be separately rented or sold as a commercial space for a person or persons not living on the premises, or as a residential space for a person or persons not working on the premises;

  g. The multiple-family design guidelines and development standards do not apply to live-work units;

  h. Construct all nonresidential space, to the maximum allowed, to commercial building standards; and

  i. Provide an internal connection between the residential and nonresidential space within each unit.

29. Subject to the maximum permitted density of the zoning district. For assisted living facilities, residential facilities with health care, and independent senior living facilities, each residential care unit is considered one dwelling unit for purposes of density calculations.

30. Conditional use when the number of residents exceeds 20 at any one time or more than four resident staff.

SECTION 7. - Severability. If any one or more section, subsection, or sentence of this ordinance is 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 8. - 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; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

SECTION 9. - Effective Date. This ordinance shall take effect and be in force 30 days from and after its passage, as provided by law.

Suzette Cooke, Mayor

ATTEST:

Ronald F. Moore, MMC
RONALD F. MOORE, CITY CLERK

APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

PASSED: 16th day of February, 2016.
APPROVED: 16th day of February, 2016.
PUBLISHED: 19th day of February, 2016.

I hereby certify that this is a true copy of Ordinance No. 4188 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

Ronald F. Moore, MMC (Seal)
RONALD F. MOORE, CITY CLERK