ORDINANCE NO. 4339

AN ORDINANCE of the City Council of the City of Kent, Washington, amending chapters 15.02 and 15.04 of the Kent City Code relating to group homes, boarding homes, short-term rentals and communal residences.

RECITALS

A. Certain housing arrangements are protected under state and federal law to prevent discrimination and protect vulnerable individuals, particularly those requiring care, such as elderly or disabled persons.

B. Federal and state law provide protections to adult family homes and group homes for people with disabilities which promote locating these housing types in areas zoned for residential and commercial use. While adult family homes are subject to state oversight and have eligibility criteria, licensing requirements and regular state-conducted inspections, typical group homes have no such regulatory oversight.

C. The City has received complaints that some group homes in Kent may be operating with substandard living conditions and may in fact be boarding homes or room rental situations operating under the guise of a group home.

Amend KCC 15.02 and 15.04 - Re: Group Homes & Room Rentals
D. The City has also received complaints of homeowners and tenants renting rooms as short-term rentals on internet platforms such as AirBnB, sometimes generating neighborhood parking problems.

E. Washington State Substitute House Bill 1798 recently created a new state law, chapter 64.37 RCW, relating to short-term rentals, which took effect on July 28, 2019. This new chapter distinguishes short-term rentals from other rentals based on rental for 30 or fewer consecutive nights and requires operators to pay occupancy, sales, and lodging taxes if required by the City the rental is located in. Certain consumer safety protections are also required for rental platforms and operators.

F. The City finds it is within the public interest to ensure group homes and room rentals provide adequate, safe, and healthy living conditions.

G. The City finds it is further within the public interest to limit impacts to and maintain the residential character of single-family neighborhoods by limiting the number of rooms within a single-family residence that may be rented on a short or long-term basis.

H. To ensure consistency with RCW 64.37 and adequately protect consumers, the City finds it is necessary to define, regulate, and license short-term rentals.

I. On October 2, 2019, pursuant to RCW 36.70A.106, a request for expedited review was sent to the Washington State Department of Commerce. On October 16, 2019, the City was granted expedited review. No comments were received.
J. On October 25, 2019, the City’s SEPA Responsible Official issued a Determination of Non-Significance for the code amendment (ENV-2019-39, KIVA # RPSW-2194251).

K. On September 9, 2019, the Land Use and Planning Board held a workshop to discuss the proposed amendments. After appropriate public notice, on October 14, 2019, a public hearing was held before the Land Use and Planning Board, which recommended the City Council approve the amendments as presented by staff.

L. On November 12, 2019, Committee of the Whole considered the recommendation of the Board.

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

ORDINANCE

SECTION 1. - Amendment - KCC 15.02.055. Section 15.02.055 of the Kent City Code, entitled “Boarding or lodging home,” is amended as follows:

Sec. 15.02.055. Boarding or lodging homeShort-term rental. Boarding or lodging homeShort-term rental means a dwelling or part thereof, other than a motel or hotel, where lodging, with or without meals, is provided, for compensation, for fewer than thirty consecutive nights—not more than three (3) persons.

SECTION 2. - New Section - KCC 15.02.073.1. Section 15.02.073.1 of the Kent City Code is created as follows:
Sec. 15.02.073.1. Communal residence.

Communal residence means a business operated out of a single-family residential home with or without an owner occupant residing therein, where the residential home, or portions thereof, are rented to residential tenants through separate, unrelated lease or rental agreements. The fact that the individuals rent the residence or a portion thereof through separate, unrelated lease or rental agreements shall be prima facie evidence that the individuals are unrelated, not living as a single housekeeping unit, and do not meet the definition of “family” per KCC 15.02.135. Group homes and short-term rentals are not communal residences.

SECTION 3. - Amendment - KCC 15.02.135. Section 15.02.135 of the Kent City Code, entitled “Family,” is amended as follows:

Sec. 15.02.135. Family.

Family means an individual; two (2) or more persons related by blood, marriage, or state registered domestic partnership under Chapter 26.60 RCW; a group of two (2) or more disabled residents protected under the Federal Housing Act Amendments, who are not related by blood, marriage, or state registered domestic partnership under Chapter 26.60 RCW, living together as a single housekeeping unit; or a group of six (6) four (4) or fewer residents, who are not related by blood, marriage, or state registered domestic partnership under Chapter 26.60 RCW, living together as a single housekeeping unit; or a group living arrangement where six (6) or fewer residents receive supportive services such as counseling, foster care, or medical supervision at the dwelling unit by resident or nonresident staff, excluding Class II and III group homes.

SECTION 4. - Amendment - KCC 15.02.173. Section 15.02.173 of the Kent City Code, entitled “Group Home,” is amended as follows:
Sec. 15.02.173. Group home.

A. Class I group home. Class I group home means publicly or privately operated residential facilities such as including state-licensed adult family homes as defined by RCW 70.128.010, state-licensed foster-family homes and group homes for children as defined by RCW 74.15.020(e); group homes for individuals who are developmentally, physically, or mentally disabled; and group homes or halfway houses for recovering alcoholics and former drug addicts, and other groups not considered within class II or III group homes.

1. Group home, class I-A. A class I-A group home shall have a maximum of six (6) residents not including providers or resident staff.

2. Group home, class I-B. A class I-B group home shall have a maximum of ten (10) residents including resident staff.

B. Class II group home. Class II group home means publicly or privately operated residential facilities for juveniles under the jurisdiction of the criminal justice system. These homes include state-licensed group care homes or halfway homes for juveniles which provide residence in lieu of sentencing or incarceration, and halfway houses providing residence to juveniles needing correction or for juveniles selected to participate in state-operated work release and pre-release programs. The planning director shall have the discretion to classify a group home proposing to serve juveniles convicted of the offenses listed under class III group home in this section as a group home class III, and any such home shall be sited according to the regulations contained within the group III classification.

1. Group home, class II-A. A class II-A group home shall have a maximum of eight (8) residents including resident staff.

2. Group home, class II-B. A class II-B group home shall have a maximum of twelve (12) residents including resident staff.
3. Group home, class II-C. A class II-C group home shall have a maximum of eighteen (18) residents including resident staff.

C. Class III group home. Class III group home means privately or publicly operated residential facilities for adults under the jurisdiction of the criminal justice system who have entered a pre- or post-charging diversion program, or been selected to participate in state-operated work/training release or other similar programs as provided in Chapters 137-56 and 137-57 WAC. Such groups also involve individuals who have been convicted of a violent crime against a person, or a crime against property with a sexual motivation and convicted or charged as a sexual or assaultive violent predator. Secure community transition facilities are considered class III group homes. Secure community transition facilities shall have a maximum of three (3) residents, excluding resident staff, unless the state agency proposing to establish and operate the facility can demonstrate that it has equitably distributed other secure community transition facilities with the same or a greater number of residents in other jurisdictions or communities throughout the entire geographic limits of King County.

SECTION 5. - Amendment - Chapter 15.02 KCC - New KCC 15.02.335.01. Section 15.02.335.01 of the Kent City Code is amended by adding a new section to read as follows:

Sec. 15.02.335.01 Provider.
Provider means one of the following:
A. Any person, as defined by RCW 70.128.010(9), that is licensed to operate an adult family home;
B. Any person, firm, partnership, association, corporation, or facility as defined by RCW 74.15.020(1), that is licensed to care for children, expectant mothers, or persons with developmental disabilities; or
C. Any person or legal entity that operates a halfway house or group home for recovering alcoholics or drug addicts.

SECTION 6. - Amendment - KCC 15.04.020. Section 15.04.020 of the Kent City Code, entitled "Residential land uses," is amended as follows:

[See Following Page]
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Amend KCC 15.02 and 15.04 - Re: Group Homes & Room Rentals
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[End of Section 15.04.020]
SECTION 7. - Amendment - KCC 15.04.030. Section 15.04.030 of the Kent City Code, entitled “Residential land use development conditions,” 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, are only permissible in a mixed use overlay and must be included within a mixed use development.

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 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 subsection (3)(a) of this section 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.

Amend KCC 15.02 and 15.04 - Re: Group Homes & Room Rentals
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:

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

Amend KCC 15.02 and 15.04 - Re: Group Homes & Room Rentals
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 statewide, regional, or countywide 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. [Reserved];

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.

31. Emergency housing is an allowed conditional use in the MR-D zone only in conjunction with an approved conditional use permit, and subject to the following additional conditions:

   a. The emergency housing facility must be located on the same lot as an actively operating church or similar religious institution, and the lot must be a minimum of two acres in size;

   b. The emergency housing facility must be located within a permanent, enclosed building;

   c. The building footprint of the emergency housing facility cannot exceed the building footprint of the church or similar religious institution that exists on the same lot;

   d. The church or similar religious institution on the same lot as the emergency housing facility shall be primarily liable for the

Align KCC 15.02 and 15.04 - Re: Group Homes & Room Rentals
operation and maintenance of the facility itself, as well as the conduct of the residents of the facility on and in the immediate vicinity of the lot, to the maximum extent permitted by law, regardless of whether the organization contracts with a third party for the provision of any services related to the facility itself or its residents; and

   e. The emergency housing facility shall comply with the setbacks and landscaping requirements for churches, as identified in KCC 15.08.020(A).

32. The following restrictions apply to all group homes:

   a. A group home is considered a single-family residential use and shall not be combined with another residential use on the same parcel including, but not limited to, a communal residence or short-term rental;

   b. A City of Kent business license is required in accordance with Chapter 5.01 of the Kent City Code;

   c. The applicant is responsible for obtaining required state licenses and providing a copy of an up-to-date state license, or proof one is not required by the state, to the City of Kent prior to approval of a city business license;

   d. Family members of the provider may live in the group home, but such members are limited only to a spouse and children of the provider or spouse, and are subject to the background check requirements of WAC 388-76-10161 and WAC 388-73-10166; and

   e. An accessory dwelling unit is permitted only if used as part of the operation of a group home and may not be leased or sub-leased to a separate family.

33. The following restrictions apply to all communal residences:

   a. A City of Kent business license is required in accordance with Chapter 5.01 of the Kent City Code:
b. No more than three rooms within the home or accessory structure may be separately leased or sub-leased; and

c. Each room being leased or sub-leased shall have adequate space, light, electricity, heating, emergency egress, a smoke detector, and access to adequate sanitation and eating facilities pursuant to the International Residential Code and International Property Maintenance Code as adopted in KCC 14.01. Adequate space means floor area of no less than 70 square feet in size, no less than 7 feet of ceiling height and shall not have any horizontal dimension less than 7 feet. Egress means one emergency escape rescue opening at least 5.7 square feet, 24 inches high and 20 inches wide.

34. The following restrictions apply to short-term rentals:

a. A City of Kent business license is required in accordance with Chapter 5.01 of the Kent City Code;

b. The home shall be occupied by the owner or a non-transient tenant for at least six months of each year;

c. No more than three rooms within the home or accessory structure may be offered as short-term rentals; and

d. The applicant is responsible for complying with the short-term rental requirements of RCW 64.37.

SECTION 8. - 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 9. - 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 10. - Effective Date.** This ordinance shall take effect and be in force 30 days from and after its passage, as provided by law.

DANA RALPH, MAYOR

November 19, 2019
Date Approved

KIMBERLEY A. KOMOTO, CITY CLERK

November 19, 2019
Date Adopted

November 22, 2019
Date Published

APPROVED AS TO FORM:

ARTHUR "PAT" FITZPATRICK, CITY ATTORNEY

Amend KCC 15.02 and 15.04 - Re: Group Homes & Room Rentals