CITY OF KENT, WASHINGTON

ORDINANCE NO.

An Ordinance of the City of Kent relating to storm and surface water, establishing a storm and surface water utility, and adopting a system or plan of storm water collection and treatment for the City.

WHEREAS, the Kent City Council finds that an expanding population and increased development of land use has led to drainage and storm and surface water runoff problems within the City, and to water quality degradation through discharge of nutrients, metals, oil and grease, toxic materials, and other detrimental substances including, without limitation, insect and weed control compounds; that uncontrolled water runoff on streets and highways poses a safety hazard to both lives and property; and that continuation of present drainage planning and practices, to the extent that they exist, will lead to erosion, property damage, and endanger the health and safety of the inhabitants of the City; and

WHEREAS, the City of Kent has undertaken a program to control the runoff from all new development within the City's drainage basins; the storage of storm and surface water to prevent excess runoff; the retention of the recharge function of all designated areas known as sinks; the provision of stream bank stabilization where necessary; the creation of vegetative buffers for temperature control and habitat enhancement at selected locations; the treatment of first flush discharge from major storm drain systems; and the establishment of a permanent and comprehensive quality and quantity monitoring program within the City; and

WHEREAS, the initial planning stages toward further implementation of these goals have been completed, and personnel of the City of Kent, and neighboring cities of King County have met and reviewed the joint program relating to surface water runoff particularly within the Green River Basin, and these personnel have reported to the legislative bodies of their respective governmental units; and

WHEREAS, the City Council of the City of Kent, Washington, has studied the reports submitted to it by the City's staff charged with responsibility to so report: NOW, THEREFORE

BE IT ORDAINED BY THE CITY OF KENT, as follows:

Section 1. The City Council finds and declares that absent effective regulation and control, existing storm and surface water drainage conditions in all drainage basin(s) within the City generally described in EXHIBIT A, by this reference incorporated herein and made a part hereof, constitute a potential hazard to health, safety and property of City inhabitants. The City
Council finds further that natural and man-made storm and surface water drainage or sewerage facilities together constitute a storm and surface water drainage facility and that effective regulation and control of storm and surface water in all stream basins and financing of the facilities requires joint regulation, control, and financing with some or all of the cities of Auburn, Renton, Tukwila, and Des Moines and King County, Washington (the "County") pursuant to Chapters 35.67 and 39.34 RCW, and Article 11, Section 11 of the Washington State Constitution, and that the best interests of the City require the formation by the City of a storm and surface water utility and the transfer to that utility of all storm and surface watercourses and related rights belonging to the City.

Section 2. There is hereby created and established a storm and surface water utility of the City. The City elects to exercise all the lawful powers necessary and appropriate to the construction, condemnation and purchase, acquisition, addition to, maintenance, conduct and operation, management, regulation and control of, the storm and surface water system described in Section 3 of this Ordinance as the same may hereafter be added to, bettered or extended within or without the present and future limits of the City, including, without limitation, all the lawful powers to fix, alter, regulate and control the rate, charges and conditions for the use thereof.

Section 3. There is hereby specified and adopted the original system or plan of the storm and surface water facilities described as set forth on the map attached as EXHIBIT A hereto and made a part hereof by this reference, and which shall include all properties, interest, physical and intangible rights of every kind or nature owned or held by the City, however acquired, insofar as they relate to or concern storm or surface water sewerage, further including without limitation, all such properties, interest and rights acquired by adverse possession or by prescription, directly or through another, in and to the drainage or storage, or both, of storm or surface waters, or both, through, under or over lands, landforms, watercourses, sloughs, streams, ponds, rivers, lakes, and swamps, all beginning, in each case or instance at a point where storm or surface waters first enter the storm or surface water system of the City and ending in each case or instance at a point where such storm or surface waters exit from the storm or surface water system of the City, and in width to the full extent of inundation caused by storm or flood conditions.

Section 4. The City Council expressly finds the value of the above described original system or plan of storm and surface water facilities is equal to the value of release from primary responsibility therefor insofar as it relates to or concerns storm or surface waters within the City. Accordingly, all of the City's above mentioned facilities including the rights and interests as a part thereof, as they relate to or concern storm or surface waters are, for purposes of Section 43.09.210 RCW, hereby transferred to and
subject to the administration of the City's storm and surface water utility created by this Ordinance, and all other institutions and departments of the City having primary responsibility therefor within the City are, to the same extent, released from such primary responsibility.

Section 5. In as much as the City now owns all those facilities, including the rights and interests as a part thereof and the original system or plan set forth in Section 3 of this Ordinance, there is no estimated cost thereof.

Section 6. The storm and surface water utility herein created shall be administered by the City Public Works Department in such a manner as the City Council shall provide by ordinance or by joint resolution with the County or other cities. The failure to pass or adopt such an ordinance or resolution shall not affect the validity of this Ordinance or the formation of the storm and surface water utility created hereby.

Section 7. If any portion of this Ordinance as now or hereafter amended, or its application to any person or circumstances, is held invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole, or any section, provision or part thereof not adjudicated to be invalid or unconstitutional, and its application to other persons or circumstances shall not be affected.

Section 8. This Ordinance shall be in force and take effect five days from and after its passage by the Council and publication as provided by law.

ISABEL HOGAN, MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM

DONALD E. MIRK, CITY ATTORNEY

PASSED the 21st day of ___________, 1981.
APPROVED the 25th day of ___________, 1981.
PUBLISHED the 27th day of ___________, 1981.
I hereby certify that this is a true copy of Ordinance No. 23-25 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

MARIE JENSEN, CITY CLERK