ORDINANCE NO. 3208

AN ORDINANCE of the City of Kent, Washington, amending maintenance bond and insurance requirements in the City's Surface Water and Drainage Utility Code, Chapter 7.07 of the Kent City Code.

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

Section 1. Code Section Amended. Section 7.07.090 of the Kent City Code is hereby amended as follows:

Sec. 7.07.090. Bonds and liability insurance required.

A. The public works department is authorized to require all persons constructing retention/detention or other drainage treatment/abatement facilities to post surety and cash bonds. Where such persons have previously posted or are required to post other such bonds on the facility itself or on other construction related to the facility, such person may with the permission of the department of public works and to the extent allowable by law combine all such bonds into a single bond. At no time shall the amount thus bonded be less than the total amount which would have been required
in the form of separate bonds. Such a bond shall on its face clearly delineate those separate bonds which it is intended to replace.

B. Prior to commencing construction, the person constructing the facility shall post a construction bond, or other security in an amount sufficient to cover the cost of conforming such construction with the approved drainage plans. The amount of the bond or security shall reflect the costs of the approved drainage plan and shall be increased at one-year intervals in a proportion equivalent to the prevailing rate of inflation in construction costs as specified in the procedures manual. After determination by the department of public works that all facilities are constructed in compliance with the approved plans and upon receipt of the maintenance bond required in subsection C. below, the construction bond shall be released. At the city's option, an assignment of savings, letter of credit or some other form of guarantee acceptable to the city may be substituted for the bond requirement.

C. After satisfactory completion of the facilities and release of the construction bond by the city, the person constructing the facility shall commence a two-one year period of satisfactory maintenance of the facility. A cash bond or other security instrument excluding security bonds to be used at the discretion of the public works department to correct deficiencies in the maintenance affecting public health, safety and welfare must be posted and maintained
throughout the two-one year maintenance period. The amount of the cash maintenance bond shall be determined by the public works department, but shall not be in excess of fifteen (15) percent nor less than ten (10) percent of the construction cost of the drainage facilities. In addition, a surety bond or cash bond to cover the cost of design defects or failures in workmanship of the facilities shall also be posted and maintained throughout the two-one year maintenance period. The amount of the bonds shall be increased at one year intervals in a proportion equivalent to the prevailing rate of inflation. At the city's option, an assignment of savings, letter of credit, or some other form of guarantee acceptable to the city may be substituted for the bond requirement.

D. The person constructing the facility shall provide liability insurance in accordance with the latest Edition of Standard Specifications for Road, Bridge and Municipal Construction or in such other form, type and amount as required by the public works department. At a minimum, the city shall be named as an additional insured and the insurance shall protect the city from any liability for any accident, negligence, failure of the facility, or any other liability whatsoever, relating to the construction or maintenance of the facility. The liability insurance shall be provided during construction and for the required period of maintenance following construction, provided that in the case of facilities assumed by the city for maintenance pursuant to section 7.07.100, the requirement to provide
insurance shall terminate when the city assumes maintenance responsibility.

Section 2. Code Section Amended. Section 7.07.100 of the Kent City Code is hereby amended as follows:

Sec. 7.07.100. City assumption of operation and maintenance.

A. The city may assume the operation and maintenance responsibility of retention/detention or other drainage treatment abatement facilities after the expiration of the two—one year operation and maintenance period in connection with the subdivision of land; if:

1. All of the requirements of section 7.07.090 have been fully complied with;

2. The facilities have been inspected and approved by the department of public works after two (2) years one (1) year of operation in accordance with the procedures manual;

3. All necessary easements entitling the city to properly operate and maintain the facility have been conveyed to the city and recorded with the King County auditor;

4. The surety bond or other security in section 7.07.090 has been extended for one (1) year,
covering the city's first year of operation and maintenance; and

5. The developer has supplied to the city an accounting of capital, construction and operation and maintenance expenses or other items, for the drainage facilities up to the end of the two-one year period, for the purpose of establishing the basis for future bonding requirements for other developments.

B. If the city elects not to assume operation and maintenance responsibility for the facilities it will be the responsibility of the developer to make arrangements with the occupants or owners of the subject property for assumption of operation and maintenance in a manner subject to the approval of the department of public works or in accordance with the procedures manual. Such arrangements shall be completed and approved prior to the end of the two-one year period of developer responsibility.

C. If the city elects not to assume operation and maintenance responsibility, the drainage facilities shall be operated and maintained in accordance with the arrangements as approved by the department of public works. The city may inspect the facilities in order to ensure continued use of the facilities for the purposes for which they were built and in accordance with these arrangements.
Section 3. **Savings.** Kent City Code Sections 7.07.090 and 7.07.100, which are amended by this ordinance, shall remain in full force and effect until the effective date of this ordinance.

Section 4. **Severability.** The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 5. **Effective Date.** This ordinance shall take effect and be in force thirty (30) days from the time of its final approval and passage as provided by law.

[Signature]
JIM WHITE, MAYOR

ATTEST:

[Signature]
BRENDA JACOBER, CITY CLERK
APPROVED AS TO FORM:

[Signature]

ROGER A. LUBOVICH, CITY ATTORNEY

PASSED the 17 day of January, 1975.

APPROVED the 18 day of January, 1975.

PUBLISHED the 20 day of January, 1975.

I hereby certify that this is a true and correct copy of Ordinance No. 3208, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent hereon indicated.

[Signature]

BRENDA JACOBER, CITY CLERK