Ordinance No. 3671

(Amending or Repealing Ordinances)

CFN=200 – Outside Sewer & Water Requests
Passed – 12/9/2003
Outside Utility Services

Amends Ords. 2696;2767;2953 (formerly 4.22.10 now 7.11)
ORDINANCE NO. 3671

AN ORDINANCE of the City Council of the City of Kent, Washington, amending Ch. 7.11 of the Kent City Code, entitled “Utility service outside the city,” to clarify conditions for the provision of utility services to properties located outside the City limits.

WHEREAS, RCW 35.67.310 allows the City to provide utility service to properties located outside the City limits upon terms and conditions established by ordinance; and

WHEREAS, Ch. 7.11 of the Kent City Code contains the City’s current code provisions regarding utility service outside the City, which was last amended in November 1990; and

WHEREAS, this ordinance amends Ch. 7.11 of the Kent City Code to separate and clarify what the City will require in order to provide utility services to properties located outside the City limits, but within the City’s potential annexation area, and when providing utility services to properties located outside the City limits and outside the City’s potential annexation area; NOW THEREFORE,

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

Ch. 7.11 KCC - Utility Service Outside the City of Kent
SECTION 1. - Amendment. Chapter 7.11 of the Kent City Code, entitled "Utility service outside the city," is amended as follows:

Chapter 7.11. UTILITY SERVICE OUTSIDE THE CITY

Sec. 7.11.010. Within potential annexation area. Area designated. The City may not provide utility services to properties located outside City limits, but within the City's potential annexation area outside the corporate limits of the city, with the exception of those areas within the city's primary sphere of interest for annexation purposes as adopted by resolution, unless if the property owner requesting such service covenants and agrees as follows:

1. The owner will enter into a "no-protest to annexation" agreement, which the City will record with the King County Recorder's Office, in which the owner will give notice of the owner's intent to annex and will petition for annexation of the property to the City and give notice of intent to annex under any statutory annexation method now enacted, or subsequently enacted, that involves a petition process in order to effect the annexation. The notice and petition will constitute a covenant that runs with the owner's property and will apply at the time the owner's property is included within any area that the City is considering for annexation. The notice and petition agreement will state that, upon annexation, the property will be assessed and taxed at the same rate and on the same basis as property within the City is assessed and taxed, and will include any outstanding indebtedness of the City contracted prior to or existing at the time of annexation. Further, this notice and petition will only be accepted by the City under terms and conditions established by the City through the public works department and consistent with the provisions of this chapter.

2. The owner understands and agrees that upon annexation the property will be assessed and taxed at the same rate and on the same basis as property within the
city is assessed and taxed, and to pay any outstanding indebtedness of the city contracted prior to or existing at the time of annexation.

23. The owners will agree to design and construct all public improvements to meet or exceed City subdivision and construction standards. The City’s public works director, or his or her designee, department reserves the right to withhold providing sanitary sewer, and or water service until the public improvements have been constructed in accordance with such standards.

24. The owners will agree to provide the City with mylar-reproducible or other acceptable as-built construction drawings of the public improvements prior to initiating building construction on any lot within any the-proposed subdivision of the property. The City shall have the right to inspect all construction work during and after completion. Any work found not to have been constructed in accordance with City construction standards, as determined by the public works director or his or her designee, shall be corrected by owner at the owner’s sole cost and expense.

45. The owners agree that development of the property will create significant impacts on the City including immediate impacts to the city’s streets, roads, and traffic system. The owners will agree and covenant that they will participate in the cost of constructing required improvements determined to be necessary by the City, including impacts to the City’s streets, roads, and traffic system and payment of a proportionate share of all costs associated with the construction of the road and traffic system improvements as determined by the City. These improvements actions must be completed to the City’s satisfaction prior to the City providing utility service to the subject property.

6. The owner shall agree to pay a proportionate share of all costs associated with the construction of the road and traffic system improvements as determined by the City. The method for determining the owners’ contribution toward
the construction of such improvements shall be based upon a formula determined by the director of public works.

57. The requirements of this section will act as covenants and promises contained in such agreements that will shall run with the land and shall be binding upon all parties and successors in interest having or acquiring any right, title, or interest in the property and the improvements described in any agreement.

68. The owners will agree that, should it fail to comply with any of the covenants or any agreements executed with the City, the City may, at its sole discretion, terminate the city's utility services provided to the owner.

79. The owners agree that the annexation areas subject to these agreements shall be consistent with applicable subarea land use plans and the City's citywide comprehensive plan; provided, however, that the owners further agree that until such time as the 1990-1993 comprehensive plan update is complete, consistency and with the City's long-range planning goals, as shall be determined by the planning manager, and that the City may withhold full implementation of the comprehensive land use plan map designations in its annexation zoning proposals in order to achieve a more orderly physical development pattern and to implement its goals of twenty (20) percent density reduction in multifamily residential areas.

810. The owners will state in its application for utility service or in its notice and petition for annexation the existing King County zoning designation in order to and certify that it is consistent with the City's plan as determined by the planning director until such time as the 1990-1993 comprehensive plan update is complete.

Section 7.11.020. Outside Potential Annexation Area. In accordance with RCW 35.67.310, as currently enacted or hereafter amended or recodified, the City may provide utility services to properties located outside City limits and outside the City's
potential annexation area, if the property owner requesting such service covenants and agrees, in writing, to the following requirements:

1. The owner agrees that development of the property may create significant impacts on the City, including impacts to the City’s streets, roads, and traffic system and to the City’s creeks, streams, and drainage system. The owner will agree and covenant that it will participate in the cost of constructing required improvements determined to be necessary by the City. These actions must be completed to the City’s satisfaction prior to the City providing utility service to the subject property.

2. The owner agrees and covenants that it will mitigate its impact upon the City’s storm drainage system in those areas deemed appropriate by the City’s public works director, or his or her designee. Mitigation may be by implementing the off-site mitigation improvements deemed necessary by the City, by paying to the City an amount equivalent to the estimated cost of construction of the necessary improvements in order to mitigate the impact upon the City’s system due to development of owner’s property, or by other appropriate mitigation procedures. In those instances where impacts to a major or regional project is involved, the owner shall pay a prorated share as determined appropriate by the City. Construction of any mitigating improvements shall meet or exceed City construction standards and shall be further made in accordance with this subsection.

3. The owner shall agree to pay a proportionate share of all costs associated with the construction of the road and traffic system improvements as determined by the City. Further, where the subject property abuts and takes access off of a City street, the owner agrees to improve the property’s frontage to City standards as outlined in the City’s construction standards. The owner shall submit plans of the frontage improvements to the City for review and approval along with providing mylar reproducible or other acceptable as-built construction drawings upon completion. The City shall have the right to inspect the construction work during and after completion.
Any work found not to have been constructed in accordance with the City's construction standards, as determined by the City's public works director or his or her designee, shall be corrected by owner at owner's expense. These frontage improvements must be completed or bonded to the satisfaction of the City prior to the City providing utility service to the property.

4. The owner agrees that the covenants and promises contained in these agreements shall run with the land and shall be binding upon all parties and successors in interest having or acquiring any right, title, or interest in the property and improvements described in any agreement.

5. The owner agrees that, should it fail to comply with any of the covenants or any of the agreements executed with the City, the City may, at its sole discretion, terminate the utility services provided to owner.

6. For those properties seeking City utility service that would affect an upstream tributary of a drainage watershed area that is subject, all or in part, to City regulation or control, and which is serviced, all or in part, by the City's storm and surface water utility, the following additional requirements will also apply:

   (a) The owner will design and construct all public and/or private storm water detention and water quality treatment system(s) ("drainage system(s)") in a manner that meets or exceeds City construction standards as determined by the public works department. The City's public works director, or his or her designee, reserves his or her right to withhold sanitary sewer and water service until the drainage system(s) have been constructed in accordance with these standards.

   (b) The owner will submit all construction plans for the drainage system(s) associated with the development to the City for its review and approval prior to initiating development work on the property. The owner will provide the City with mylar-reproducible or other acceptable as-built construction drawings of the drainage
system(s) after they have been constructed. The owner will grant the City the right to enter the owner's property at any time in order to inspect any construction work during design or construction, or after its completion. Any work found not to have been constructed in accordance with City construction standards, as determined by the public works director or his or her designee, shall be corrected by the owner at its sole cost and expense.

(c) The owner will pay any permit review fees deemed appropriate by the public works director. The owner must grant to the City a right of access to inspect continuing operations and maintenance of the drainage system(s) to assure they are being operated and maintained properly. If the drainage system(s) are not maintained or operated properly, the owner agrees to promptly bring the utility facilities into compliance with City standards.

(d) Where deemed appropriate by the public works director, or his or her designee, owner's property may be subject to the same terms and conditions as those properties located within City limits, including but not limited to service charges in accordance with Ch. 7.05 of the Kent City Code, as currently enacted or as hereafter amended or recodified from time to time.

SECTION 2. – Severability. If any one or more section, subsections, or sentences of this ordinance are 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 3. – Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage as provided by law.

JIM WHITE, MAYOR

Ch. 7.11 KCC - Utility Service Outside the City of Kent
ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

PASSED: 9 day of December, 2003.

APPROVED: 9 day of December, 2003.


I hereby certify that this is a true copy of Ordinance No. 3671 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

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