AN ORDINANCE of the City Council of the City of Kent, Washington related to design and construction standards for infrastructure improvements, repealing Ordinance No. 3117; repealing chapter 7.08 of the Kent City Code, entitled “Side Sewer Code”; and amending chapter 6.02 of the Kent City Code entitled, “Required public improvements.”

RECITALS

A. The City last developed and enacted construction standards for public works related improvements on May 18, 1993. Since 1993 construction techniques have changed dramatically, necessitating revision to the City’s construction standards. Public Works Department staff has worked to complete a thorough review and update of the standards and standard plans.

B. As part of the review and development process, the City held focus group meetings with developers and other professionals on October 28 and 30 of 2008. A draft of the revised construction standards was also sent to King County Metro Wastewater Treatment Division for approval per the requirements of an Interlocal Agreement. On November 3, 2008 the City received approval of the draft from King County Metro Wastewater Treatment Division.
C. The State Environmental Policy Act (SEPA) responsible official has determined that the proposed code amendments are procedural in nature and further SEPA analysis is not required for these code amendments.

D. On October 31, 2008, the City requested expedited review from the state of Washington, under RCW 36.70A.106, of the City's intent to adopt amendments to the subdivision code. Approval for expedited review was granted on November 3, 2008 and no comments were made after review.

E. Public Works Committee considered these updates to the design and construction standards on November 3, 2008, and the Land Use and Planning Board held workshops on November 10, 2008 and February 9, 2009. The Board then held a public hearing on February 23, 2009. The Public Works Committee considered the issues and the recommendation of the Board on March 16, 2009. On July 20, 2009 the Public Works Committee recommended a change to Section 6.14 only of the construction standards to be adopted by amendments to the code. The City Council held a public hearing on Section 6.14 of the construction standards and adopted these amendments at its meeting on August 18, 2009.

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

Section 1. - Repealer. Ordinance 3117 of the City of Kent, enacting new construction standards for public works related improvements in the City of Kent, adopted on May 18, 1993, is hereby repealed.

Section 2. - Repealer. Chapter 7.08 of the Kent City Code, entitled “Side Sewer Code,” is hereby repealed in its entirety.

Section 3. - Adopt. The City hereby adopts the 2009 Design and Construction Standards for infrastructure related improvements, attached hereto as Exhibit “A” and incorporated herein by this reference.

Section 4. - Amendment. Chapter 6.02 of the Kent City code, entitled “Required Public Improvements,” is amended as follows:

CHAPTER 6.02
REQUIRED PUBLIC-INFRASTRUCTURE IMPROVEMENTS

Sec. 6.02.010 Standard—specifications—Construction Standards adopted. The City hereby adopts by reference the latest edition of the Standard Specifications for Road, Bridge and Municipal Construction, as published by the Washington State Department of Transportation and the American Public Works Association; and the 2009 City of Kent Design and Construction Standards (“Construction Standards”) and all codes, standards and provisions cited therein in Section 1.6. is hereby adopted by reference. One (1) copy of each of these standards Construction Standards is on file in the city clerk’s office.
Sec. 6.02.020 Intention. It is intended that the Construction Standards standards adopted in KCC 6.02.010 shall become the base specifications and standards, subject to amendment by the city on individual projects, for the construction of and improvements to city infrastructure—city public works including streets, alleys, other public rights-of-way, sanitary sewer systems, water distribution systems, storm drainage systems, and all other transportation, telecommunications and utility systems and associated appurtenances—facilities. It is also intended that the Construction Standards shall govern all permits for excavation and grading in the City and be applicable to the City's own projects for public works.

Sec. 6.02.030 Purpose.

A. The purpose of this chapter is to establish:

1. Authority—The Intention of the city to require each developer for a development permit ("Developer") to make or install reasonable public infrastructure improvements; and primarily through a no-protest local improvement district agreement process.

2. Procedures that will be used to determine the nature, extent and location of the required public infrastructure improvements; and provide for public infrastructure improvements and determine the appropriate method of satisfying these requirements by building permit applicants, and requirements; and

3. Criteria that will be used to determine the nature, extent and location of the required public infrastructure improvements.

B. The criteria established in this chapter do not satisfy or supersede additional requirements imposed by the city in Ch. 11.036 KCC.
Sec. 6.02.040 Scope and exceptions. All development in the City will require infrastructure improvements as conditions of permit except when: This chapter applies to all public infrastructure improvements and to private development infrastructure and site improvements constructed by an applicant for a building permit except the following:

1. An applicant for a permit for a building on a lot legally subdivided under the subdivision code, Ch. 12.04 KCC after the effective date of the ordinance from which this chapter was derived;

2A. An application for a building development. The permit is to make additions, alterations or repairs of less than twenty-five thousand dollars ($25,000) in cost-value to any structure or site as that term is defined in the Standards. This threshold amount shall be automatically adjusted annually by the percentage increase or decrease in the Washington State Department of Transportation Construction Cost Index;

or

B. an application for a development. The permit is to make additions, alterations or repairs of fifty thousand dollars ($50,000) or more in cost-value to any site, adjusted annually by the Washington State Department of Transportation Construction Cost Index such threshold amount to be subject to the automatic adjustment described in the preceding subsection, if the Developer applicant proves to the Public Works Director or his or her designee ("director") that the additions, alterations or repairs will result in no improvements being made have no additional adverse impacts too existing the infrastructure; or
C.3. An application for the permit is to make wholly interior improvements within an existing structure.

Provided, however, that if a Developer applicant chooses to make any infrastructure improvements for a development permit that would otherwise be exempt then, such improvements shall be in compliance with the Construction Standards.

the project is subject to the related terms of this chapter.

Sec. 6.02.050 General. Based solely on the criteria of KCC 6.02.040, the city shall require each Developer applicant for a building development permit not otherwise exempted by this chapter to install or otherwise provide for the following public infrastructure improvements within the public right-of-way: in compliance with the according to the Design and Construction Standards:

1A. Adequate rights-of-way and paved roadways streets;
2B. Street lighting systems to provide illumination of not more than two (2) footcandles at the nearest edge of the paved roadway;
3C. Sidewalks and walkways on the frontage of the same side of the street as the subject property;
4CD. Curbs and gutters, sidewalks and landscaping;
5DE. Storm drainage systems;
EF. Sanitary sewer systems;
FG. Domestic water and fire systems;
G. Traffic control systems; and
H. Conduit for fiber optic systems.
Sec. 6.02.060 Procedure.
A. Generally. After consultation with representatives of the departments listed in subsection (B) of this section, the director of public works or his/her designate shall tentatively determine:

1. The nature, extent and location of the infrastructure improvements that are to be provided within the criteria set forth in Section 6.02.70 herein.

2. Whether to require the applicant to:
   a. Install necessary infrastructure improvements; and/or Sign an agreement not to protest the formation of or assessments under a future local improvement district;
   b. Pay a fee in lieu of construction; and/or
   c. Execute and record a covenant to run with the land agreeing not to protest the formation of a local improvement district to finance any deferred public infrastructure improvements required under this chapter; and/or
   d. Provide surety bond or other guarantees as set forth in the Construction Standards to secure the later construction of the required infrastructure improvements.
   e. Sign an agreement not to protest the formation of or assessments under a future local improvement district. Install necessary public improvements; and/or
   f. Some combination of the above requirements in this subsection (1).

2. The nature, extent and location of the public infrastructure improvements that are to be provided.
The director of public works shall discuss the tentative determination with the developer applicant in relation to the criteria of KCC 6.02.040. After any resulting necessary modifications deemed appropriate by the director, the director shall inform the developer applicant of the final determination.

B. Interdepartmental review. Before making the final determination required by subsection (A) of this section, the director of public works shall consult with and may incorporate or modify the recommendations of representatives from the following departments of the city:

1. Police department;
2. Fire department;
3. Planning department; and
4. Parks and recreation department.

These representatives shall use only the criteria of this chapter to formulate their recommendations.

Sec. 6.02.070 Criteria for requiring infrastructure improvements. The director of public works shall use only the following criteria in making the determinations required by KCC 6.02.060(A)(12):

1A. If the city council, through an approved plan or policy, has, by ordinance or resolution, established the nature, extent and location of improvements to be provided in the vicinity of the
property for which the buildingdevelopment permit is sought, the Director shall require publicinfrastructure improvements under this chapter consistent with the nature, extent and location thereof as established by the city council.

2B. If the city council has not established the nature, extent and location of publicinfrastructure improvements in the vicinity of the property for which the buildingdevelopment permit is sought:

a1. The director of public works shall require the appropriate publicinfrastructure improvements if the director has first explored alternatives to requiring the Developer applicant to provide the improvements and has found these alternatives in his opinion not reasonably feasible, and if the Director additionally finds any of the following that:

(1)a. Similar publicinfrastructure improvements already exist or are scheduled in the immediate vicinity of the property for which the buildingdevelopment permit is sought;

(2)b. The proposed use of the property for which the buildingdevelopment permit is sought necessitates the installation of the publicinfrastructure improvements;

(3)c. The property for which the buildingdevelopment permit is sought is located in close proximity to an activity center, defined as a park, school, commercial center, large employment center, large multifamily development or any other public or private development where people or activities are concentrated, and that the required improvements will enhance access to this activity center and that it is in the best interests of the residents of the city to enhance access to this activity center;

(4)d. Physical characteristics of the property for which a buildingdevelopment permit is sought, including but not limited to
topography, slope, soil type, drainage pattern or vegetation, necessitate the installation of public infrastructure improvements;

(5)e. The public infrastructure improvements are necessary to maintain water quality; or

(6)f. For any other reason, the public infrastructure improvements are necessitated by a compelling interest in the public interest. If the director of public works requires the provision of public infrastructure improvements under this subsection, the director shall make written findings and conclusions specifying the compelling public interest that necessitates the improvements and the manner in which these improvements will fulfill this compelling public interest.

b2. The director of public works shall not require any public infrastructure improvement pursuant to this chapter to unless such improvement is comply with the Construction Standards. in accordance with specifications and/or standards approved by the director and adopted by the city council. If such specifications or standards have not been adopted by the city council, then the specifications or standards established in the subdivision code, Ch. 12.04 KCC shall apply, where applicable.

**Sec. 6.02.080 Criteria for deferral of public infrastructure improvements.** The director of public works may defer the allow the Developer to defer the construction of portions of the required infrastructure improvements where such improvements will result in only partial structures, where anticipated future development and/or planned city public works projects will result in more complete and logical systems, and where such deferral is otherwise in the public interest. Upon the determination of the director to allow deferral, the Developer shall secure its contribution pursuant to KCC 6.02.060(2). installation of 10 Infrastructure Design and Construction Standards Amend 6.02
public infrastructure improvements required by the director under this chapter where total compliance with those requirements would not be reasonable in the time construction takes place, or wherever such construction, addition or alteration is located in an isolated area or where the adjoining or abutting improvements are substandard. For those deferred improvements, the director shall require the applicant to execute and record a covenant document that insures the participation of the owner of the property for which the building development permit is sought in any local improvement district formed for the construction of such improvements:

**Sec. 6.02.090 Enforcement.**

A. **General.** No protest local improvement district agreements, covenants required pursuant to KCC 6.02.060 or installation of public infrastructure improvements and the conditions of any deferrals required by the director of public works under this chapter, shall be listed as a condition of approval and shall become part of the approved building development permit.

B. **Procedure.** The provisions required by the director of public works under subsection (A) of this section shall be enforced as conditions part of the approved building development permits and otherwise as allowed by applicable law.

**Sec. 6.02.100 Appeals.**

A. The determination of the director regarding the nature, location and extent of infrastructure improvements of public works shall be final, unless an appeal by the applicant developer is made to the hearing examiner within fourteen (14) days after the director's determination. The appeal shall be in writing to the hearing examiner and filed with the public works department. The hearing examiner shall act on the appeal within
sixty (60) days unless an extension thereto is agreed to, in writing, by the applicant developer. The hearing examiner should review the decision of the public works director to assure compliance with this chapter, the general purposes of the comprehensive plan of the city as well as all adopted ordinances, resolutions and standards.

B.B. A fee of twenty-five dollars ($25) shall be paid at the time of filing the written appeal. The appeal will not be accepted unless accompanied by full payment.

C.C. The decision of the hearing examiner may be appealed to the city council pursuant to the rules and procedures established for the hearing examiner under Ch. 2.32 KCC.

D. Decisions of the director with respect to compliance with the Construction Standards shall be final with no administrative appeal.

SECTION 5. - Savings. The existing chapter 6.02 of the Kent City Code, which is amended by this ordinance, shall remain in full force and effect until the effective date of this ordinance.

SECTION 6. - 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 7. - Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage as provided by law.
ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

PASSED: 18th day of August, 2009.
APPROVED: 18th day of August, 2009.
PUBLISHED: 22nd day of August, 2009.

I hereby certify that this is a true copy of Ordinance No. 3927 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 (SEAL)
BRENDA JACOBER, CITY CLERK

13  Infrastructure Design and Construction Standards Amend 6.02