

August 25, 1998

Introduced By:

KENT PULLEN

Proposed No.:

98 - 512

MOTION NO. **105384**

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A MOTION authorizing the county executive to enter into an interlocal agreement with the city of Kenmore relating to local services.

WHEREAS, the city of Kenmore will incorporate on August 31, 1998, and

WHEREAS, the city desires to secure certain municipal services from the county for its residents, and

WHEREAS, the county is willing and able to provide the requested municipal services;

NOW, THEREFORE, BE IT MOVED by the Council of King County:

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The county executive is authorized to execute an interlocal agreement, substantially in the form attached, with the city of Kenmore for the county to provide the following service:

- 1. Building Permit and Land Use Services (Department of Development and Environmental Services)

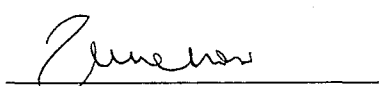
PASSED by a vote of 12 to 0 this 31ST day of August, 1998.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



VICE Chair

ATTEST:


Clerk of the Council

Attachment: Interlocal agreement for building and land use services

INTERLOCAL AGREEMENT BETWEEN KING COUNTY
AND THE CITY OF KENMORE RELATING TO PROCESSING
OF BUILDING PERMITS, LAND USE APPLICATIONS
AND CODE ENFORCEMENT SERVICES

THIS AGREEMENT is made and entered into this day by and between King County, a home rule charter County in the State of Washington (hereinafter referred to as the "County") and the City of Kenmore, a municipal corporation in the State of Washington (hereinafter referred to as the "City").

WHEREAS, the City has incorporated within an area which had previously been unincorporated King County, and

WHEREAS, all local governmental authority and jurisdiction with respect to the newly incorporated area transfers from the County to the City upon the date of incorporation, and

WHEREAS, the County and City agree that having County staff process various incorporation area building permit applications, land use applications, and code enforcement activities on behalf of the City for a transitional period will assist in an orderly transfer of authority and jurisdiction; and

WHEREAS, it is the parties' intent by virtue of this Agreement that any and all discretionary decisions shall be made by the City, and

WHEREAS, this Agreement is authorized by the Interlocal Agreement Act, RCW 39.34;

NOW, THEREFORE, in consideration of the terms and provisions herein, it is agreed by and between the City and County as follows:

1. Enactment.

1.1 In order to enable the County to process building and land use permit applications and conduct code enforcement activities in accordance with the terms of this Agreement, the City shall enact an ordinance based on the County building, development and code enforcement regulations in existence at the time of incorporation. In addition, the City shall adopt legislation authorizing the County to

charge applicants fees in amounts currently specified or hereafter adopted in King County Code Title 27 for applications processed by the County in accordance with the terms of this Agreement.

1.2 The City shall consult with the County prior to adopting the City zoning map, building, code enforcement, fee and development regulations and will immediately upon adoption notify the County in writing of any differences between the City and the County zoning map, codes, or regulations.

2. Preincorporation Permit Application Filed with King County.

2.1 Except as otherwise provided for herein, the County shall continue to review on behalf of the City all building permit and land use applications filed with the County before the effective date of incorporation which involve property within the City. Review by the County shall occur in accordance with the regulations under which the applications are vested or to which they are otherwise subject. Any decisions regarding whether or when an application vested shall be made by the City.

2.2 Except as provided in Section 6 of this Agreement, County review of building related permits -- which include but are not limited to building permits, mechanical permits, fire systems/fire sprinkler permits, and grading and clearing permits -- shall include decisions to approve, condition or deny applications; follow-up inspections and enforcement of conditions of approval; issuance of extensions or completion of extensions; and issuance of ancillary permits, such as fire and mechanical permits, which are essential for completion of each original project permit.

2.3 For those land use applications that do not require a public hearing prior to issuance, the County will continue to process such applications and shall make a report and recommendation to the City's designated decision-maker. Any final action on these applications shall be taken by the City.

2.4 For those land use applications that require quasi-judicial or legislative approval, e.g., subdivision or rezones, or which involve administrative appeals, the County shall likewise prepare a report and recommendation to the City's designated decision-maker. The decision-maker shall not be a

County employee. The City shall be responsible for scheduling, providing notice, conducting any public hearings required, and making any decision in conjunction with the application.

2.5 For those subdivisions and short subdivisions that have been granted preliminary approval prior to incorporation, the County shall continue to review the development up to the point of making a recommendation to the City on whichever pending phase of review the development is in on the date of incorporation. For purposes of this Agreement, post-preliminary approval review phases include engineering plan approval, final plat or short plat approval, construction inspection approval, and maintenance/defect approval. After making its recommendation, unless otherwise agreed, the County shall turn the application over to the City for all further decisions and processing. The City may in writing request, and the County may in writing agree, in certain cases, to complete subsequent post-preliminary approval review phases. All financial guarantees required of the applicant at completion of a current review phase to secure compliance with the requirements of subsequent phases shall be promptly filed with or turned over to the City, which shall have sole discretion on the assessment of required performance and the release of said guarantees.

2.6 The County will prepare and send to the City on a monthly basis a list of all building and land use permit applications pending within the incorporation area. The City or County may exclude from this Agreement any permits or applications on any such list. Such exclusion shall be by written notice within thirty (30) days following receipt of the applicable list.

3. Processing of Building Related Permit Applications Filed After the Date of Incorporation.

3.1 The County agrees to process building related permit applications for properties within the incorporation area filed between the date of incorporation and December 31, 1999.

3.2 The types of building related permits contemplated within this section include, but are not necessarily limited to, building permits, mechanical permits, fire systems/fire sprinkler permits, and grading and clearing permits.

3.3 Except as provided in Section 6 of this Agreement, the processing of such building related permits shall include decisions to approve, condition or deny applications; follow-up inspections and enforcement of conditions of approval; issuance of extensions or completion of extensions; and issuance of ancillary permits, such as fire and mechanical permits, which are essential for completion of each original project permit.

3.4 The County shall be authorized to collect from applicants and retain all fees associated with the review of these permit applications.

3.5 The County agrees to assist the City in training City staff to perform building-related application intake review services.

4. Referral of New Land Use Application Following Incorporation.

4.1 The County agrees to advise permit applicants that any post-incorporation land use application or permit requests within the boundaries of the incorporation area must be submitted to the City except as provided for in this Agreement.

4.2 In order to provide for an orderly transition, the City may request that the County process on behalf of the City certain land use applications filed after the date of incorporation. If the County agrees, said applications will be processed in accordance with the provisions of Section 2 of this Agreement.

4.3 The City shall request in writing that the County process land use applications at least thirty days prior to the time the City would like the County to commence such processing.

4.4 The City shall notify the County in writing when these transition services are no longer required and shall arrange for the orderly transfer of any transition applications to the City pursuant to the transfer provisions in this Agreement.

4.5 The County shall collect and retain all fees associated with permits processed by the County pursuant to this Section..

4.6 The County agrees to assist the City in training City staff to perform land use application intake review services.

5. Optional Hearing Examiner Review. Notwithstanding any other provision in this Agreement, upon written request by the City, the County may agree to have the King County Hearing Examiner conduct public hearings on behalf of the City for particular land use or building permit applications. Decisions whether to utilize the County Hearing Examiner shall be made by the City and County on a case by case basis. In cases where the County Hearing Examiner conducts a public hearing on behalf of the City, the Hearing Examiner shall issue a report and recommendation to the applicable City decisionmaking official(s). All final decisionmaking authority in such matters shall remain with the City.

6.. SEPA Compliance.

6.1. In order to satisfy the procedural requirements of the State Environmental Policy Act ("SEPA"), the City shall serve as lead agency for all applications processed by the County pursuant to this Agreement. The City shall designate and identify a SEPA responsible official to make threshold determinations and to supervise the preparation and content of environmental review for projects within the City. The responsible official shall not be an employee, officer, or agent of the County.

6.2. All SEPA review shall be done according to the City's rules and regulations. Any and all appeals from SEPA threshold determinations and other SEPA matters relating to projects within the City shall be heard by the City.

6.3. For those permits requiring a SEPA determination, the County will not take final action upon the application until the City's responsible official has acted. Upon written request with regard to a particular project, the County agrees to provide technical and administrative SEPA assistance to the City's responsible official on that project. Such assistance may include, but is not limited to:

- * review of an applicant's environmental checklist and collection of relevant comments and facts;
- * preparation of a proposed SEPA threshold determination with supporting documentation for approval, publication and notice by the County on behalf of the City's responsible official;
- * preparation and submittal of a written review and comment on any appeal received on a SEPA threshold determination recommended by County staff to the City's designated appeal hearings officer;
- * attendance at appeal hearings to testify with respect to analysis of environmental impacts, mitigation measures and the environmental review process;
- * preparation of any required draft, final, addendum or supplemental EIS for approval of the City's responsible official; and
- * coordination of adopted or required SEPA measures of mitigation with project review staff.

6.4. In cases where an environmental impact statement is prepared for a project, the decision whether to condition or deny an application on SEPA grounds shall be made by the City.

7. Administrative and Ministerial Processing.

7.1 County review specified in this Agreement is intended to be of an administrative and ministerial nature only. Any and all legislative or quasi-judicial decisions or decisions of a discretionary nature shall be made by the City and/or its designated decision-maker.

7.2 For purposes of this Agreement, decisions to condition or deny any permit approval on SEPA grounds are discretionary determinations that will be made by the City.

8. Permit Condition and Code Enforcement.

8.1 Enforcement of Permit Conditions. The County is authorized, on behalf of the City, to enforce conditions of approval for those permits that the County processes pursuant to this Agreement. Such enforcement authority shall not include initiation of court enforcement actions. Initiation of such actions shall be the sole responsibility of the City.

8.2. Enforcement of Code Requirements. Within a reasonable period following the effective date of this Agreement, the County shall provide the City with a list and brief explanation of all incorporation area code enforcement cases under review by the County at the time of incorporation.

8.3 The City shall be responsible for taking in any code enforcement complaints made by citizens following the date of incorporation. The City may refer such complaints to the County for further processing in accordance with paragraph 8.4 of this Agreement.

8.4 The County shall assist the City in any enforcement action in any code enforcement case either under review by the County at the time of incorporation or referred to the County pursuant to paragraph 8.3 of this Agreement. Such assistance may include investigating violations, issuing stop work orders, citations and/or notice and orders on behalf of the City and testifying at administrative code enforcement appeal hearings. Such assistance shall not include the conducting of administrative appeals, initiation of court enforcement actions, or collection of civil penalties.

8.5 The City shall promptly provide the County with direction on whether and how to proceed with any code enforcement case where the County requests such direction. Nothing in this Agreement is intended to limit the City's ability to pursue code enforcement activities independent of actions under taken by the County pursuant to this Agreement. The City or County may, at any time, exclude from

this Agreement particular code enforcement cases. Notice of intent to exclude further County authority over such cases shall be provided in writing.

9. Processing Priority. Within budgetary constraints the County agrees to process reincorporation building and land use applications in accordance with the County's administrative procedures, at the same level of service as provided to County applications.

10. Fees and Reimbursement.

10.1 In order to cover the costs of processing building and land use permit applications and performing SEPA review in accordance with the terms of this Agreement, the County is authorized to collect and retain such application and other fees authorized by the County fee ordinances adopted by the City pursuant to Section 1 above, or as may be modified at some future date by the County and the City.

10.2 For all applications excluded from County processing or transferred to the City pursuant to the terms of this Agreement, the County will retain the base permit fee and a percentage of fees equivalent to the percentage of permit processing and administration performed by the County on the application. Any remaining application fee amounts received by the County prior to exclusion or transfer shall be promptly forwarded to the City.

10.3 In order to cover the costs of providing review, technical and administrative assistance, code enforcement and intake training services to the City pursuant to this Agreement, the City shall pay the County an hourly of \$95.00; provided that, the County shall not seek reimbursement under this paragraph either for review services performed on an individual permit application where the County has already been fully compensated for such services by the receipt of permit application review fees or for services which are reimbursed pursuant to paragraph 10.4 of this Agreement. The County shall provide

the City with quarterly invoices for assistance and services provided, and the City shall tender payment to the County within thirty days after the invoice is received.

10.4. In order to cover the cost of the County's providing services in public hearings or appeals pursuant to this Agreement, the City shall reimburse the County for Hearing Examiner time at a rate of ___ per hour, for County technical staff at a rate of \$95.00 per hour, and for County administrative staff at a rate of ___ per hour. The County shall provide the City with quarterly invoices for services provided, and the City shall tender payment to the County within thirty days after the invoice is received

11. Duration. This Agreement shall become effective upon incorporation and shall continue until December 31, 1999, unless otherwise terminated or extended. Either party may terminate this Agreement upon providing at least sixty (60) days written notice to the other party. The Agreement may be extended as provided in Section 13.

12. Termination Procedures. Upon termination of this Agreement, the County shall cease further processing, enforcement, and related review functions with respect to applications it is processing under this Agreement. The County shall thereupon transfer to the City those application files and records, posted financial guarantee instruments, and unexpended portions of filing fees for pending land use and building-related applications within the incorporation area. Upon transfer, the City shall be responsible for notifying affected applicants that it has assumed all further processing responsibility.

13. Extension. Pursuant to a mutual agreement between the parties, this Agreement may be extended to December 31, 2002. To extend the Agreement, the City shall make a written request to the County not less than sixty (60) days prior to the end of this Agreement. The request shall specify the proposed term of the extension. The parties must agree to the extension in writing by the termination date or the agreement will lapse.

14. Application Process. The County and the City will each prepare and have available for applicants and other interested parties a document describing the handling of applications based on this Agreement.

15. Indemnification.

15.1 The County shall indemnify and hold harmless the City and its officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the County, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the City, the County shall defend the same at its sole cost and expense, provided that the City retains the right to participate in said suit if any principal or governmental or public law is involved, and if final judgment be rendered against the City and its officers, agents, and employees, or any of them, jointly against the City and County and their respective officers, agents, and employees, or any of them, the County shall satisfy the same.

15.2 The City shall indemnify and hold harmless the County and its officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the City, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the county, the City shall defend the same at its sole cost and expense, provided that the County retains the right to participate in said suit if any principal of governmental or public law is involved; and if final judgment be rendered against the County and its officers, agents, employees, or any of them, or

jointly against the City and County and their respective officers, agents, and employees or any of them, the City shall satisfy the same.

15.3 The City and the County acknowledge and agree that is such claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers and the County, its agents, employees, and/or officers, this section shall be valid and enforceable only to the extent of the negligence of each party, its agents, employees and/or officers.

16. Personnel. Control of personnel assigned by the County to process applications under this Agreement shall remain with the County. Standards of performance, discipline and all other aspects of performance shall be governed by the County.

17. Administration. This Agreement shall be administered by the County Director of Development and Environmental Services or his/her designee, and the City Manager, or his/her designee.

18. Amendments. This Agreement is the complete expression of the terms hereto and any oral representation or understanding not incorporated herein are excluded. Any modifications tot his Agreement shall be in writing and signed by both parties.

19. Legal Representation. Except as set forth in Section 15, the services to be provided by the County pursuant to this agreement do not include legal services, which shall be provided by the City at its own expense.

20. Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties hereto. No other person or entity shall have any right of action or interest in this Agreement based upon any provision set forth herein.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed.

KING COUNTY

King County Executive

Dated

Approved as to Form:

NORM MALENG
King County Prosecuting Attorney

By: _____
Senior Deputy Prosecuting Attorney

Dated

CITY OF KENMORE

Kenmore City Manager

Dated

Approved as to Form:

City Attorney

Dated