Ordinance No. 2282

["Beginning July 1, 1998"]

(Amending or Repealing Ordinances)

CFN=119 – Flood Control & Watershed Control
Passed – 3/16/1981
Defining flood hazard areas – define the limits of the floodway and floodway fringe

Amended by Ord. 3746 (Sec.14.09.040)
AN ORDINANCE relating to flood hazard, defining flood hazard areas, giving authority to define the limits of the floodway and floodway fringe, prescribing land use regulations within flood hazard areas.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENT:

Section 1. Findings. The Council of the City of Kent finds that:

A. The flood hazard areas of Kent are subject to periodic inundation which endangers life and property, presents health and safety hazards, disrupts commerce and governmental services, and necessitates extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare, and

B. These flood losses are caused by the natural accumulation and ponding of floodwaters and the cumulative effect of obstructions in flood hazard areas which increase flood heights and velocities. Uses inadequately floodproofed, elevated or protected from flood damage or that otherwise encroach on the natural holding capacity of the floodplain also contribute to the flood loss.

Section 2. Purpose. It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by enacting provisions designed to:

A. Protect life and property by preventing the hazardous use of flood-prone lands;

B. Protect downstream or surrounding property from higher velocities or higher flood levels which may be caused by loss of holding capacity in the floodplain;

C. Minimize turbidity and pollution from upstream or surrounding development during a flood;

D. Minimize the expenditure of public money for remedial flood control measures;

E. Minimize the need for rescue and relief efforts associated with flooding which are generally undertaken at the expense of the general public;
F. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood hazard areas;

G. Alert appraisers, assessors, owners, potential buyers, and lessees to the natural limitations of flood-prone land;

H. Ensure that those who occupy flood hazard areas assume responsibility for their actions;

I. Qualify the City of Kent and existing homes and businesses for participation in the Federal Flood Insurance Program; and

J. Implement local, State and Federal flood protection programs.


In order to accomplish its purposes, this ordinance includes policies and standards to:

A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion, flood heights or velocities;

B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Control the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

D. Control filling, grading, dredging, and other development which may increase flood damage; and,

E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Section 4. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"APPEAL" means a request for review of any action pursuant to this Ordinance or of the interpretation of any provision of this Ordinance by any City official.
"BASE FLOOD" means the flood having a one percent chance of being equaled or exceeded in any given year, also referred to as the "100-year flood".

"BASE FLOOD ELEVATION" means the actual elevation (in mean sea level) of the water surface of the base flood determined by the Federal Flood Insurance Administration or any other qualified person or agency described in Section 5 of this ordinance.

"CITY" means the City of Kent or the City Council of Kent.

"DEVELOPMENT" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within flood hazard areas.

"DIRECTOR" means the Director of the Department of Public Works.

"EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION" means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this ordinance.

"EXPANSION TO AN EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION" means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).
"FLOOD" OR "FLOODING" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

A. The overflow of inland or tidal waters and/or
B. The unusual and rapid accumulation of runoff of surface water from any source.

"FLOOD HAZARD AREA" means the area within the floodplain consisting of the floodway, floodway fringe and any adjacent land which has been included within the boundary indicated on the accompanying flood hazard area maps.

"FLOOD INSURANCE RATE MAP" (FIRM) means the official map on which the Federal Flood Insurance Administration has delineated both the flood hazard areas and the risk premium zones applicable to the community.

"FLOOD INSURANCE STUDY" means the official report (Exhibit A) provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary and Floodway Map, Flood Insurance Rate Map, and the water surface elevation of the base flood.

"FLOOD PLAIN" means that portion of a river or stream channel and adjacent lands consisting of the floodway and floodway fringe which are subject to the base flood.

"FLOOD SEASON" means the period from November 1 to March 31 during which, historically, the frequency, distribution and volume (inches of rainfall) of storms in the Green River Basin have been the largest and all known major floods have occurred.

"FLOODWAY" means the regular channel plus that portion of the flood plain which has been defined as floodway and delineated on maps by the Federal Insurance Administration or by any qualified person or agency described in Section 5 of this ordinance.
"FLOODWAY FRINGE" means that portion of a floodplain which is not floodway.

"HABITABLE FLOOR" means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used exclusively for storage purposes is not a "habitable floor".

"MOBILE HOME" means a structure that is transportable in one or more sections, built on a permanent chassis, designed to be used with or without a permanent foundation when connected to the required utilities and intended for human habitation. It does not include recreational vehicles or travel trailers.

"NEW CONSTRUCTION" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

"NEW MOBILE HOME PARK OR MOBILE HOME SUBDIVISION" means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot (including, at a minimum, filling, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is begun on or after the effective date of this ordinance.

"START OF CONSTRUCTION" means the first placement of permanent construction on a site. Permanent construction includes land preparation, such as clearing, grading and filling, the installation of streets, walkways, and utilities, excavation for a basement, footings, piers or foundations, the pouring of slabs or footings, the first permanent framing or assembly of a structure or any part thereof on its piling or foundation or any other work beyond the stage of excavation.
"STRUCTURE" means a walled and roofed building or mobile home that is principally above ground.

"SUBSTANTIAL IMPROVEMENT" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the appraised fair market value of the structure either:

A. before the improvement or repair is started, or
B. if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

A. any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are necessary solely to assure safe living conditions, or
B. any alteration of a structure listed on the National Register of Historic Places or a recognized state or local inventory of historic places.

"VARIANCE" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

Section 5. Authority. The City of Kent, through the Public Works Department, shall consider and interpret information produced by the Army Corps of Engineers, Soil Conservation Service, Department of Housing and Urban Development or any other qualified person or agency to determine the location of flood plains, floodways or floodway fringes.

Section 6. Maps Shall be Adopted. Flood hazard areas shall be shown and defined on City floodway (flood boundary and floodway map) maps which shall become a part of this title by adoption by the City Council. Copies of the maps shall be maintained for inspection by the public in the Public Works Department.
Section 7. Information to be Obtained and Maintained. The City will obtain from the applicant, and maintain a record of, the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures within a Flood Hazard Area and whether or not the structure contains a basement. This information shall be maintained by the Building Department.

Section 8. Floodways. Within areas designated as floodways, the following provisions shall apply:

A. The following shall not be permitted in a known floodway:
   1. Any permanent building or structure designed to be used year-round for human habitation, commerce, employment or public assembly;
   2. Any structure, excavation, landfill or grading which would cause water to be diverted from the established floodway, cause erosion, obstruct the natural flow of water, increase the potential for turbidity or pollution, materially reduce the carrying capacity of the floodway, or raise the elevation (greater than 1 foot in the floodway) of the 100-year flood;
   3. During the flood season, the construction or storage of any object or material which would be subject to flotation and movement;

B. Any development or substantial improvement which satisfies the provisions of Section 8(A) may be permitted, when permitted in the underlying zoning classification provided that all permanent or year-round buildings are either located outside the floodway or, if located in the floodway, can be flood-proofed according to the provisions of Sections 10 and 11 with negligible obstruction, diversion and loss of carrying capacity.

C. Dwellings, and structures or buildings relating to commerce, employment or public assembly which are seasonal in nature and either mobile or readily disassembled; and are removed from the floodway during the flood season may be permitted when permitted in the underlying zoning classification.

D. Except during the flood season, the storage of equipment, machinery and building materials may be permitted when permitted in the underlying zoning classification.
Section 9. **Floodway Fringe.** Within areas designated as floodway fringe, the following shall not be permitted:

A. Any structure, development, landfill or grading which, if generally permitted would:
   1. reduce significantly the natural holding capacity or raise the elevation (greater than 1 foot) of the surrounding or upstream floodway; or
   2. pollute or contribute materially to the turbidity of flood water at the base flood stage;

B. Any permanent structure which is not fully protected from water damage at the base flood level or not constructed with materials and in a manner to minimize flood damage as specified in Sections 10 and 11: PROVIDED that structures, developments, grading and landfill permitted in the floodway may be permitted in the floodway fringe, except that seasonal restrictions may be reduced.

Section 10. **General Standards for Flood Hazard Protection.** In all flood hazard areas, the following general standards for flood hazard protection shall apply:

A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

B. All new construction and substantial improvements shall be constructed:
   1. with materials and utility equipment resistant to damage by flood waters; and
   2. using methods and practices that minimize flood damage.

C. Utilities shall be designed and installed under the following provisions:
   1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
   2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
   3. On-site waste disposal systems are prohibited.

D. All subdivision proposals shall:
   1. Be consistent with the need to minimize flood damage;
   2. Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage; and
   3. Have adequate drainage provided to reduce exposure to flood damage.
Section 11. Specific Standards for Flood Hazard Protection. In all areas of flood hazard, the following specific standards for flood hazard protection shall apply:

A. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation.

B. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

3. Be certified by a registered professional engineer that the standards of this subsection are satisfied.

C. Mobile homes shall be protected from flood hazards under the following provisions:

1. All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

   a. Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring one additional tie per side;

   b. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional ties per side;

   c. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and,

   d. Any additions to the mobile home be similarly anchored.
2. For new mobile home parks and mobile home subdivisions; for expansions to existing mobile home parks and mobile home subdivisions; for existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for new mobile homes not placed in a mobile home park or mobile home subdivision, require that:

a. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;

b. Adequate surface drainage and access for a hauler are provided; and,

c. In the instance of elevation on pilings, that: lots are large enough to permit steps, piling foundations are placed in stable soil no more than ten feet apart, and reinforcement is provided for pilings more than six feet above the ground level.

Section 12. Permits and Licenses - Approval Required. No permit or license for structures or the development or use of land shall be issued by the City within a flood hazard area unless approved by the Department of Public Works. Such approval shall be based on a review of the provisions set forth in this chapter and the technical findings and recommendations of City departments including, but not limited to Building, Fire and Planning Departments. Compliance with the provisions of this chapter does not obviate the need to obtain other permits which may be required pursuant to state or federal law including approvals required from the Washington State Departments of Social and Health Services and/or Ecology relating to water and/or sewer systems which ensure that water and sewer systems will be designed to avoid infiltration, inflow or impairment.

Section 13. Procedural Requirements. City permits or licenses which relate to the development and use of land within a flood hazard area shall be referred to the Department of Public Works by the issuing department for approval. If it can be determined
from information at hand that the property does not lie in a flood hazard area, the department may approve the permit or license directly. If it appears that the property may lie in the floodway or floodway fringe, the Department of Public Works shall require its owner to submit information necessary to determine if in fact the property lies within the floodway or floodway fringe. If it is determined that the property lies within the floodway or floodway fringe, the applicant shall be required by the Department of Public Works to submit such surveys, plans and supporting documents as are necessary to determine the applicability of City regulations to the proposed structure, development or use. The Department of Public Works shall consider not only the individual structure, development or use, but shall also consider it in combination with existing and future similar structures, developments and uses. Whenever technical information is furnished to the City by an applicant, the City shall consider such report in acting upon the requested permit.

The Director or his(her) designate shall, within a reasonable time, indicate approval or disapproval of the requested permit or license; and if approved, the conditions of approval, in a letter to the issuing department, with copies to the applicant, commenting department, other agencies, and other known parties of interest.

Whenever any alteration or relocation of any watercourse is proposed, the Department of Public Works shall notify adjacent communities prior to such relocation or alteration and submit such notifications to the Federal Emergency Management Agency. Within the altered or relocated portions of a watercourse, adequate flood carrying capacity shall be maintained.
Section 14. Variances. The Director or his/her designate shall have the authority to grant a variance from the provisions of this title when the conditions set forth in Section 14(B) have been found to exist and the criteria set forth in Section 14(E) have been considered; PROVIDED, that any variance granted shall be subject to such conditions as will assure that the variance thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity in which subject property is situated. The following provisions shall apply to variances from the provisions of this ordinance.

A. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or a recognized state or local inventory of historic places, without regard to the procedures set forth in the remainder of this section.

B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. Variances shall only be issued upon:
   1. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
   2. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, the creation of nuisances or conflict with existing local laws or ordinances.

E. In reviewing applications for variances, the Director or his/her designate shall consider all technical evaluations, all relevant factors and standards specified in other sections of this ordinance, and:
   1. The danger that materials may be swept onto other lands to the injury of others;
   2. The danger to life and property due to flooding or erosion damage;
   3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;

5. The availability of alternative locations, on the site for the proposed use which are not subject to flooding or erosion damage;

6. The compatibility of the proposed use with existing and anticipated development;

7. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

8. The safety of access to the property in times of flood for ordinary and emergency vehicles;

9. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

10. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

F. Upon consideration of the factors in Section 14E and the purposes of this Ordinance, the Director may attach such conditions to the granting of variances as deemed necessary to further the purposes of this Ordinance.

G. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with exceptions to one or more of the provisions of the Ordinance and that the cost of flood insurance will be commensurate with the increased risk resulting from the granting of the variance.

H. The Department of Public Works shall maintain the records of all variances and report them to the Federal Insurance Administration upon request.

Section 15. Appeals. The decision of the Department of Public Works to approve or disapprove a permit or license in a Flood Hazard area may be appealed to the Hearing Examiner. The requested permit or license shall not be issued by a City department during the appeal period. The following procedures apply to appeals for the decision of the Department of Public Works to approve or deny proposals within a Flood Hazard Area:

A. Written notice of appeal shall be filed with the Department of Public Works within ten days from the date of the decision which aggrieves the appealing party. A fee of $25.00 shall be paid at the time of filing the written appeal. The appeal will not be accepted unless accompanied by full payment.
B. All notices of appeal shall state in full the decision appealed and the reasons why the appealed decision should be reversed or modified.

C. All appeals so filed shall be heard by the Hearing Examiner and a determination by the Examiner made within thirty (30) days from the closing date of the hearing.

D. At least seven (7) days before the appeal hearing, the Department of Public Works will provide the Examiner, the appellant, and any other person expressing written interest in the application or appeal a copy of the decision which is being appealed.

E. In passing upon such applications, the Examiner shall consider all technical evaluations, all relevant factors and standards and the criteria specified in Section 14(E).

F. The Hearing Examiner shall prepare a written report and decision containing findings and conclusions which show how its decision implements the purposes of this chapter and is consistent with the criteria, standards, and limitations of this chapter.

G. The decision of the Hearing Examiner shall be final and conclusive unless, within twenty (20) calendar days from the date of the Hearing Examiner's decision, an aggrieved party obtains a writ of certiorari from King County Superior Court for the purpose of review of the action taken.

Section 16. Severability. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 17. This Ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication as provided by law.

[Signature]
ISABEL HOGAN, MAYOR
I hereby certify that this is a true copy of Ordinance No. 2282, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.