Ordinance No. 3312

["Beginning July 1, 1998"]

(Amending or Repealing Ordinances)

Soos Creek Basin Stream Buffers within the Meridian Annexation Area

Repealed by Ord. 3746
ORDINANCE NO. 3312

AN ORDINANCE of the City Council of the City of Kent, Washington, amending Kent City Code Section 15.08.224 pertaining to Soos Creek Basin Stream Buffers within the Meridian Annexation Area.

WHEREAS, on January 1, 1996, the City annexed a 5.27 square mile area of unincorporated King County lying east of the existing City limits, commonly known as the Meridian Annexation Area; and

WHEREAS, three major creeks within the Soos Creek drainage system, Soos Creek, Big Soos Creek, and Little Soos Creek, together with many unnamed tributaries to those creeks, lie within the City’s Meridian Annexation area; and

WHEREAS, these three creeks and their tributaries constitute a significant part of a unique regional drainage system, providing valuable habitat for salmon and other plant and wildlife species; and

WHEREAS, Metropolitan King County’s development setbacks along these tributaries, known as “buffers,” establish more effective protection for these tributaries’ systems than would be established under Kent City Code development standards; and

WHEREAS, various parties who deem themselves affected by this potential change in setback requirements have notified the City of their concerns for the continued preservation of this important habitat area; and

Stream Buffer
WHEREAS, on December 19, 1995, after a public hearing on the matter, the Kent City Council, by its Ordinance No. 3259, established interim zoning controls relating to preservation of these stream buffers so that City staff could conduct further study on the matter; and

WHEREAS, the City staff has studied this matter, and on May 29, 1996, the City’s Interim Land Use and Planning Board held a public hearing on a proposed zoning map and text amendment that will permanently preserve these established stream development standards on these tributaries in the Meridian Annexation Area; and

WHEREAS, the Interim Land Use and Planning Board determined, in principle, to implement these setbacks and buffers, subject to review under the State Environmental Policy Act ("SEPA") and also subject to final review and approval of the implementing ordinance; and

WHEREAS, on June 18, 1996, the Kent City Council, by its Ordinance No. 3300, extended the established interim zoning controls created by Ordinance No. 3259 to preserve these stream development standards in the Meridian Annexation Area in order to conduct SEPA review and to develop regulations pursuant to the direction of the Interim Land Use and Planning Board; and

WHEREAS, SEPA review is now complete and the appropriate regulations have been reviewed and accepted; NOW, THEREFORE,
THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES
HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Soos Creek Drainage Basin Stream Buffers Adopted. The following stream buffer regulations within the Soos Creek Basin are adopted as an overlay zoning requirement within the City’s Meridian Annexation Area and potential annexation area, a map indicating the affected basin within the annexation areas is attached as Exhibit A. Accordingly, Kent City Code Section 15.08.224 is amended as follows:

Sec. 15.08.224. Same—Classifications and restrictions.

A. Classification categories and restrictions on lot coverage. Classification categories and restrictions on lot coverage relative to hazard areas, from least to most restrictive, are as follows:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Maximum Amount of Impervious Surfaces Allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low hazard areas</td>
<td></td>
</tr>
</tbody>
</table>

1. **Low hazard areas.** In low hazard areas, the maximum amount of impervious surface allowed on each lot is thirty (30) percent. Low hazard areas are defined as lands where the following conditions exist:

   a. Slopes fifteen (15) percent to twenty-five (25) percent together with class 3 seismic hazard and class 2 erosion hazard area; or 30%

   b. Slopes fifteen (15) percent to twenty-five (25) percent together with class 2 slide and slippage and class 3 erosion hazard area; or 30%
30%

c. Slopes fifteen (15) percent to twenty-five (25) percent together with class 2 seismic and class 3 erosion hazard area; or

30%

d. Seventy-five (75) to one hundred fifty (150) feet from the top of a ravine in which a major or minor stream passes through; or

30%

e. Thirty (30) to fifty (50) feet from the ordinary high-water mark of a lake. (See the following illustration.)

30%

2. Moderate hazard areas. In moderate hazard areas, the maximum amount of impervious surface allowed on each lot is ten (10) percent. Moderate hazard areas are defined as those lands where the following conditions exist: zero to thirty (30) feet from the ordinary high-water mark of a lake. (See illustration.)

10%

3. High hazard areas. In high hazard areas, the maximum impervious surface allowed on each lot is two (2) percent. High hazard areas are defined as those lands where the following conditions exist:

2%

a. Slopes fifteen (15) percent to twenty-five (25) percent together with class 2 slide and slippage and class 3 seismic hazard, and class 3 erosion hazard area; or

2%

b. Slopes fifteen (15) percent to twenty-five (25) percent together with class 3 slide and slippage and class 3 erosion hazard area; or

2%

c. Slopes twenty-five (25) percent to forty (40) percent together with class 3 seismic and class 3 erosion hazard area; or

2%

d. Slopes twenty-five (25) percent to forty (40) percent together with class 3 erosion hazard area.

2%

4. Severe hazard areas. In severe hazard areas, the maximum amount of impervious surface allowed on each lot is zero
percent. Severe hazard areas are defined as those lands where the following conditions exist:

a. Slopes forty (40) percent and over; or 0%
b. Slopes twenty-five (25) percent to forty (40) percent together with class 3 slide and slippage, class 3 seismic hazard, and class 3 erosion hazard area; or 0%
c. All ravines; or 0%
d. Seventy-five (75) foot setback from the top of any ravine. The top of a ravine is where the slope is generally less than fifteen (15) percent; or 0%
e. Fifty (50) foot setback from the ordinary high-water mark of any major creek; or 0%
f. Twenty-five (25) foot setback from the ordinary high-water mark of any minor creek; or 0%
g. Ten (10) foot setback from the top of any drainage ditch; or 0%
h. All wetlands as defined in the document Classification of Wetlands and Deepwater Habitats of the United States, by the U.S. Fish and Wildlife Service of the Department of Interior, a copy of which is filed with the city clerk. This classification shall exclude all wetlands considered in the Valley Floor Studies; or 0%
i. All unique and fragile areas defined in the revised Valley Floor Studies, approved by city council on February 23, 1981, a copy of which is filed with the city clerk. 0%

B. Determination of precise location of hazard areas.

1. The hazard area development limitations map adopted by section 15.08.222 is based upon the most accurate data available at the time of preparation.
2. To more accurately determine the location of hazard areas, the city may require additional information with development proposals, including but not limited to a survey of the area. The hazard area map shall be corrected by planning and public works departments based upon more recent and accurate information accepted by such departments.

C. Relocation of major or minor creek.

1. All major and minor creeks in the city, where they flow on or across undeveloped land, shall be retained in their natural state and location.

2. Where retaining the major or minor creek in its natural state may interfere with a proposed development, a site specific plan, referred to in this section as a stream plan, drawn to scale, shall be prepared, which indicates how the development will be constructed in relation to the stream and in relation to required storm drainage regulations.

3. A stream plan shall be submitted to the city planning department for its review prior to the issuance of any permit, including zoning, building, grading, storm drainage or hydraulics.

4. The planning department shall review the stream plan in relation to the proposed development plan and make a determination that the plan does protect the integrity of the major or minor creek.

5. The planning department may cause a modification of the development plan to ensure that the integrity of the major or minor creek is in fact retained.

6. Any authorization for changing the course of a major or minor creek or for working in a major or minor creek shall follow the guidelines and recommendations of the state department of fisheries and game (RCW 75.20.100).

7. Setbacks from a relocated major creek shall be fifty (50) feet or as recommended by the state department of fisheries and game, whichever is the greater.
8. Setbacks from a relocated minor creek shall be twenty-five (25) feet or as recommended by the state department of fisheries and game, whichever is the greater.

D. Soos Creek Basin Stream Buffers overlay zone.

1. **Purpose.**

Streams constitute environmentally sensitive areas that are of special concern to the City of Kent. The following stream buffer regulations are intended to protect those environmentally sensitive features within the City of Kent. By regulating development and alterations to these sensitive areas, the City seeks to:

a. **Protect unique, fragile and valuable elements of the environment including wildlife and its habitat:**

b. **Mitigate unavoidable impacts to environmentally sensitive areas by regulating alterations in and adjacent to sensitive areas:**

c. **Prevent cumulative adverse environmental impacts to water availability, water quality, wetlands, and streams:**

d. **Protect the public trust as to navigable waters and aquatic resources:**

e. **Alert members of the public including, but not limited to appraisers, owners, potential buyers or lessees to the development limitations of sensitive areas:**

f. **Provide City officials with sufficient information to protect sensitive areas:** and

g. **Implement the policies of the State Environmental Policy Act, Chapter 43.21C RCW, Kent City Code Chapter 11.05, Title 15, and the City of Kent Comprehensive Plan.**
2. Definitions.

In the interpretation of the Soos Creek Basin Stream Buffers overlay zone regulations Kent City Code Section 15.08.224(D), the following words, terms, or pronouns in place of them, shall take precedent over other conflicting definitions existing elsewhere in this code, and shall have the following meanings:

**Biologist** - A person who has earned a four year degree in biological sciences from an accredited college or university, or a person who has equivalent educational training and who has experience as a practicing biologist.

**Buffer** - The zone contiguous to a sensitive area that is required for the continued maintenance, function, and/or structural stability of the sensitive area. Buffer widths vary depending on the relative quality and sensitivity of the area being protected. The critical functions of the riparian buffer (those associated with an aquatic system) include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, interception of sediments, overflow during high water events, protection from disturbance by humans and domestic animals, maintenance of wild habitat, and room for variation of aquatic system boundaries over time due to hydrological or climatic effects. The critical functions of terrestrial buffers include protection of slope stability, attenuation of surface water flows from stormwater runoff and precipitation, and erosion control.

**Building Setback Area** - A defined width of land between a sensitive area buffer and development which establishes a definite point beyond which clearing, trimming or removal of vegetation, fill, overhangs, obstructions, impervious surfaces, and building foundations shall not extend.

**Critical Drainage Area** - An area which has been determined by the Department of Public Works to require more restrictive regulation than City-wide standards afford, in order to mitigate water quality, severe flooding, drainage, erosion or sedimentation problems, which have resulted or will result from the cumulative impacts of development and urbanization.

**Director** - The Director of the City of Kent Planning Department or his/her authorized designee.
Ditches - Irrigation ditches, canals, storm or surface water conveyance channels, or other entirely artificial watercourses not utilized by salmonids. Ditches do not include reaches of streams that have been relocated, or otherwise created to reroute flows around developments or public works facilities, but which carry flows from established creeks.

Enhancement - An action which increases the functions and values of a stream, wetland, or other sensitive area.

Large Livestock - Larger livestock such as meat and dairy cattle, other bovines, llamas, and horses.

Livestock - Animals of any kind kept or raised for use or pleasure.

Livestock Fencing - Fencing constructed in such a way that it is at least four feet in height, and that livestock cannot push it over, step over it, or walk around it. Livestock fencing includes electric fences with at least two parallel electrically charged wires, four strand barbed wire fences, and other standard stock fences in common use by the livestock industry.

Line of Mean High Water - The margin of the area occupied by the water for the greater portion of each average year; at this level a definite escarpment in the soil will generally be traceable; where the edge of vegetation exists along the bank in the same location from year to year, the line of mean high water is the same as the line of ordinary high water mark.

Mitigation - The use of any or all of the following actions that are listed in descending order of preference: 1) avoiding the impact altogether by not taking a certain action or parts of an action; 2) minimizing the impact by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative actions to avoid or reduce impacts; 3) rectifying the impact by repairing, rehabilitating or restoring the affected sensitive area; 4) reducing or eliminating the impact over time by preservation or maintenance operations during the life of the project proposal; 5) compensating for the impact by replacing, enhancing or providing substitute sensitive areas and environments; 6) monitoring the impact and taking appropriate corrective measures.
**Monitoring** - Evaluating the impacts of development proposals on the biological, hydrologic and geologic elements of sensitive areas and systems and assessing the performance of required mitigation measures through the collection and analysis of data by various methods for the purposes of understanding and documenting changes in natural ecosystems and features, and includes gathering baseline data.

**Native Growth Protection Area** - An area whose native growth is protected from unauthorized removal, trimming, and planting for the purpose of protecting the public health, safety and welfare.

**Native Vegetation** - Vegetation comprised of plant species which are indigenous to the Puget Sound region and which could have been expected to naturally occur on the site. Native vegetation does not include noxious weeds, reed canary grass, cattails, purple loosestrife and other highly invasive and undesirable plants.

**Noxious Weed** - Any plant which when established is highly destructive, competitive, or difficult to control by natural or chemical practices (see Chapter 17.10 RCW). The state noxious weed list in Chapter 16-750 WAC is the officially adopted list of noxious weeds by the state noxious weed control board.

**Ordinary High Water Mark** - The mark that will usually be found by examining the bed and banks of a stream or river, and ascertaining where the presence and action of waters are so common and usual, and so long maintained in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, with respect to vegetation. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute. In any area where neither can be found, the top of the channel bank shall be substituted. In braided channels and alluvial fans, the ordinary high water mark or substitute shall be measured as to include the entire stream feature.

**Public Agency** - Any agency, political subdivision, or unit of local government of this state including by not limited to municipal corporations, special purpose districts, and local service districts; any agency of the State of Washington, the United States or state thereof; or any Indian Tribe recognized as such by the Federal government.
Salmonid - A member of the fish family Salmonidae. In King County salmonid species include Chinook, Coho, chum, sockeye and pink salmon; cutthroat, rainbow, brown trout and steelhead; Dolly Varden, brook trout, char, kokanee and white fish.

Sensitive Areas - Any of those areas in the City of Kent which are subject to natural hazards, or those land features which support unique, fragile, or valuable natural resources including fishes, wildlife and other organisms and their habitat and such resources which, in their natural state carry, hold or purify water. Sensitive areas include the following landform features: erosion hazard areas, coal mine hazard areas, land-slide hazard areas, seismic hazard areas, steep slope hazard areas, wetlands, flood hazard areas, and the adjoining protective buffers necessary to protect the public health, safety and welfare.

Sensitive Area Tract - A separate tract that is created to protect a sensitive area and its buffer and whose ownership is transferred to the City of Kent, or other approved entity.

Small Livestock - Smaller livestock such as pigs, goats, sheep, miniature horses, and feeder calves. For the purposes of maximum livestock densities in this ordinance, six (6) small livestock shall be equivalent to one large livestock.

Streams - Those areas of Kent where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is an area which demonstrates clear evidence of the passage of water and includes, but is not limited to bedrock channels, gravel beds, sand and silt beds and defined channel swales. This definition is not intended to include irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial watercourses unless they are used by salmonids or used to convey streams occurring prior to construction of such watercourses, but is intended to include creeks, sloughs, and rivers. The channel or bed of a stream does not have to contain water all year long for the reach to be considered a stream. Streams are further categorized as follows:

a. Class 1 Streams - those streams inventoried as "Shorelines of the State" under the City of Kent Shoreline Master Program, Kent City Code Chapter 11.04, pursuant to RCW Chapter 90.58.
b. **Class 2 Streams** - those streams smaller than **Class 1 Streams** that flow year around during periods of normal rainfall, or those streams that are used by salmonids.

c. **Class 3 Streams** - those streams that are intermittent or **ephemeral** during years of normal rainfall and are not used by salmonids.

**Top of Bank** - That point along a slope, channel, or stream, where the change in slope along the highest elevations at top of the slope, channel, or stream changes to a slope of less than 15 percent; this is usually a line easily seen while observing the bank or slope.

**Variance to Stream Buffer Standards** - An adjustment in the application of these stream buffer regulations to a particular piece of property in a situation where the property is otherwise deprived of all reasonable use of the property. A variance to stream buffer regulations shall not be used to convey special privileges not enjoyed by other properties in the same vicinity and zone which are subject to the same standards and code restrictions. A variance to stream buffer regulations must be authorized in writing by the Director and shall be the minimum remedy necessary to permit reasonable use of the property.

**Vegetation** - Any and all organic plant life growing at, below, or above the soil surface.

3. **Stream Buffer Standards.**

   a. **Stream Buffer Widths.**

      1. **All buffers shall be measured from the ordinary high water mark as identified in the field or, if that cannot be determined, from the top of the bank.** In braided channels, the ordinary high water mark or top of bank shall be determined so as to include the entire stream feature.

      2. **The following buffers on each side of the ordinary high water mark are minimum requirements.**

         i) **Class 1 Streams - 100 foot buffer.**
ii) Class 2 Streams used by salmonids - 100 foot buffer.

iii) Class 2 Streams - 50 foot buffer.

iv) Class 3 Streams - 25 foot buffer.

v) Ditches - 10 foot buffer.

vi) When the ordinary high water mark of any stream is within 25 feet of the toe of slopes greater to or equal than 15 percent, the following minimum buffers shall be provided:

1) WHERE THE HORIZONTAL LENGTH OF THE SLOPE INCLUDING SMALL BENCHES AND TERRACES IS WITHIN THE BUFFER FOR THAT STREAM CLASS, THE BUFFER SHALL BE THE LARGER OF:
   a) THE MINIMUM BUFFER FOR THAT STREAM CLASS; OR
   b) 25 FEET BEYOND THE TOP OF THE SLOPE.

2) Where the horizontal length of the slope extends beyond the minimum buffer for that stream class, the buffer shall extend to a point 25 feet beyond the minimum buffer for that stream class.

vii) Any stream adjoined by riparian wetland or other adjacent sensitive area shall have the buffer which applies to the wetland or other adjacent sensitive area unless the stream buffer requirements are more expansive.

viii) Any stream restored, relocated, replaced or enhanced because of alterations should have at least the minimum buffer required for the class of stream involved.

3. The Director may authorize buffer averaging, especially in instances where it will provide additional resource protection, provided that the total area on-site contained in the buffer remains the same or larger after averaging.

4. The determination of salmonid use shall be made by the Director based on the best available, past and present information gathered by the City, its agents, and other entities with jurisdiction or expertise relating to salmonid presence or absence during any life stage.
5. Stream buffers shall be managed as Native Growth Protection Areas and shall generally remain undisturbed except for enhancement planting projects.

b. Additional buffer requirements for streams.

The Planning Department may require increased stream buffer widths as necessary to protect streams. The additional buffer widths and other issues shall be determined by criteria set forth in administrative rules and include, but are not limited to, critical drainage areas, location or management of hazardous wastes, critical fish and wildlife habitat, and the location of trail or utility corridors.

c. Sensitive Area Tracts

Sensitive Area Tracts shall be used to protect all streams and buffers in or adjacent to proposals for developments, such as subdivisions, commercial development, or binding site plans of all kinds, and shall be recorded on all documents of title of record for all affected lots. Any required Sensitive Area Tract shall either be deeded or dedicated to the benefit of the City of Kent. The width of the sensitive area tract shall depend on the stream classification and buffer requirement.

d. Building Setback Areas

Sensitive Area Setback Areas shall delineate streams, steep slopes adjacent to streams, wetlands adjacent to streams, and required buffers in development proposals for building permits, short subdivisions, subdivisions, binding site plans and grading permits. The setback area shall be identified on a recorded site plan or in recorded documents filed as an a requirement of this section. Unless otherwise specified in this section, a minimum building setback line of 15 feet shall be required from the edge of the stream buffer. Prohibitions on the use of hazardous or toxic substances and pesticides or certain fertilizers in this area may be imposed.
e. **Allowed Alterations to Streams and Buffers.**

1. The following stream crossings may be permitted only with approved mitigation plans, and may be allowed only if they meet the following requirements:

   i) All crossings shall be constructed during summer low flow and shall be timed to avoid stream disturbance during periods when use is critical to salmonids;

   ii) Crossings shall not occur over salmonid spawning areas unless no other possible crossing site exists;

   iii) Crossings shall not diminish the flood carrying capacity of the stream;

   iv) Underground utility crossing shall be located at a minimum depth of four feet below the maximum projected depth of scour for the base flood as determined by professional civil engineer licensed by the State of Washington; and

   v) The applicant shall obtain approval from the Department of Natural Resources and from the Department of Fish and Game for all crossings of a Class 1 stream.

   vi) The applicant shall obtain an Hydraulics Project Approval, or a written waiver therefrom, from the State Department of Fish and Wildlife for all crossings.

2. Construction of public and private trails may be allowed in stream buffers only upon adoption of administrative rules and pursuant to the following guidelines:

   i) Trail surfaces shall not be of impervious materials, except that impervious public multi-purpose trails like the Soos Creek Trail may be allowed if they meet all other requirements including water quality; and

   ii) Where trails are provided, buffers shall be expanded, where possible.

3. Construction of utilities shall be permitted in stream buffers only when no reasonable alternative location is available.
4. Class 1 streams may not be relocated, but Class 2 and Class 3 stream relocations may be allowed, providing mitigation is provided for all impacts, they meet all requirements, and are approved by all agencies with jurisdiction. For any stream relocation, the applicant must demonstrate, based on information provided by a civil engineer and a qualified biologist, that:

i) The equivalent base flood storage volume and function will be maintained.
ii) There will be no detrimental increase or decrease in stream velocity.
iii) There will be no interbasin transfer of water.
iv) Performance standards as set out in the mitigation plan are met.
v) The relocation conforms to other applicable laws.
vi) All work will be carried out under the direct supervision of a qualified biologist.

4. Livestock restrictions adjacent to streams and wetlands.

The following standards apply to all parcels with streams flowing through or adjacent to them and are intended to allow the raising of livestock in the City of Kent while minimizing the adverse impacts on water quality and salmonid fisheries habitat in City of Kent watersheds.

a. Maximum Livestock Densities.

1. A maximum of six large livestock per gross acre, or the equivalent of six large livestock per gross acre, as defined in the definitions section of this ordinance.

2. No large livestock shall be permitted on any lot smaller than 20,000 square feet in area, except that the portion of the lot used for confinement or grazing may be less than 20,000 square feet, providing that the portion of the lot used for confinement or grazing meets the requirements of farm management standards section of these regulations.
b. Farm Management Standards.

Property owners with livestock on farms adjacent to, or containing streams, shall meet the following minimum standards:

1. Livestock Watering, Wetland and Stream Corridor Management Options.

   i) Livestock fencing shall be used as necessary to prevent livestock access to all streams, wetlands, and their buffers.

   ii) The preferred watering option shall be a domestic water supply, stock watering pond, roof runoff collection system, or an approved pump supply from the stream so that livestock are not required to enter streams for their water supply.

   iii) Livestock access to all streams and their buffers shall be limited to stream crossing and watering points which prevent free access along the length of the streams.

   iv) Livestock crossings of streams shall be limited to a single point no wider than 25 feet.

   v) Livestock watering points shall be designed in such a manner as to minimize adverse impacts to the stream.

   vi) Bridges designed to allow free flow of flood waters may be used in lieu of stream crossings, provided that piers and abutments shall not be placed within the ordinary high water mark or top of bank, whichever is greater.

   vii) Crossings of wetlands and their buffers is not permitted.

2. Grazing and Pasture, Confinement and Manure Management.

   i) Livestock fencing shall be used to establish and maintain all buffers.

   ii) Existing grazing and confinement areas shall maintain a fenced vegetative buffer of at least 50 feet from any naturally occurring pond, wetland edge, or the ordinary high water mark of all streams.
iii) Existing grazing and confinement areas which do not meet the minimum width of fenced vegetative buffers required by this chapter shall be modified as necessary to provide the buffers specified within five years of the effective date of this ordinance.

iv) Forested lands being cleared for grazing areas, and new grazing areas shall comply with the sensitive area setbacks for Class 1, Class 2, and Class 3 streams, and wetlands.

v) The grazing area buffer for Class 1 and Class 2 streams with salmonids may be reduced to 50 feet where a 50 foot width of diverse, mature vegetation already exists in the buffer area. This buffer reduction may not be used when forested lands are being cleared for grazing areas.

vi) Fencing installed pursuant to King County’s Sensitive Areas Ordinance, prior to the effective date of this ordinance, at setbacks other than those specified above, shall be deemed to be in compliance to the requirements of this section.

vii) Grazing areas may extend to the property line, provided that all streams or wetlands adjacent to the property line meet the minimum buffers established in these regulations.

viii) Manure storage areas shall be managed as follows:

1) Surface water flows shall be diverted away from manure storage areas.

2) During the winter months of October 15 to April 15, all manure stockpiled within 200 feet uphill from any Class 1 or Class 2 stream, or wetland, shall be covered in a manner that excludes precipitation and allows free flow of air to minimize fire danger; OR alternatively shall be placed in an uncovered concrete bunker, or manure lagoon, or held for pickup in a covered dumpster, vehicle or other facility designed to prevent leachate from reaching any streams or wetlands.

3) Manure shall be stored in a location that avoids having runoff from manure enter streams or wetlands.

4) Manure piles shall not be any closer than 50 feet uphill from any wetland buffer, the ordinary high water mark of any stream, or any ditch to which the topography would generally direct runoff from the manure, nor within any stream buffer.
5) Manure shall not be spread on frozen or saturated fields.
6) Manure shall not be piled within any stream buffer.

c. Existing Livestock Operations.

All existing livestock operations shall meet the farm management standards of this ordinance within five years of the effective date of this ordinance, except that existing buildings are exempt from this provision. State standards for fecal coliform, turbidity, and nutrients must be met within five years from the effective date of the ordinance adopting these regulations.

5. Exemptions.

The Planning Director may grant exemptions from these stream buffer regulations provided that the exemption is consistent with the general purposes of these regulations and the public interest. An application for a sensitive areas reasonable use exemption shall be filed with the Planning Department and the Planning Director shall issue a final decision pursuant to the provisions of this chapter.

a. Criteria.

The Planning Director, in granting an exemption for reasonable use, must determine that:

1. Application of these stream buffer regulations would deny all reasonable use of the property; and
2. There is no other reasonable use with less impact on the sensitive area; and
3. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on, or off the proposed development site; and
4. Any alterations permitted to these sensitive areas shall be the minimum necessary to allow for reasonable use of the property.
5. Any authorized alteration of a sensitive area under this section shall be subject to conditions established by the Director, and
shall require mitigation and or enhancement under approved mitigation plans.

6. **Public Works**

The application of these stream buffer regulations shall not prohibit public works within or adjacent to sensitive areas if the Planning Director determines that their application would prohibit a development by a public agency or public utility that is necessary to the public health, safety, or welfare. The Planning Director may grant an exemption based on the following criteria:

a. There is no reasonable alternative to the proposed development with less impact on the sensitive area; and

b. The proposal minimizes the impact on sensitive areas and the applicant provides restoration/enhancement of any and all disturbed areas.

7. **Conflicting Standards**

Where inconsistencies occur in the application of this Soos Creek Basin Stream Buffer overlay zone together with other buffer or setback regulations in the Kent City Code, the more restrictive regulation shall apply.

8. **Enforcement/Interpretation**

The City's Planning Director is authorized and directed to enforce all of the provisions of these stream buffer regulations. The Planning Director shall also have the power to render interpretations and to adopt rules and regulations for these standards in order to clarify the application of these provisions. The Planning Director's interpretations, rules and regulations, however, shall be in conformance with the intent and purpose of these stream buffer standards and shall be in writing.

9. **Amendment of Appendices**

The City's Planning Director is authorized to amend the appendices to the stream buffers from time to time as he or she shall deem necessary.
However, any amendments to the appendices shall conform with the intent and the purpose of these stream buffer regulations.

**EX. Exceptions.**

1. **Low hazard areas.** Development within seventy-five (75) to one hundred fifty (150) feet of the top of a ravine through which a major or minor creek passes may be permitted under the existing zoning requirements if it can be demonstrated to the planning director that water quality and quantity will not be impacted.

2. **Severe hazard areas.** A fifty-foot setback from the ordinary high-water mark of any major creek is required. Impervious surfaces may be allowed a maximum of twenty (20) percent closer to the ordinary high-water mark of a major creek, if shading vegetation is presently located.

3. **All hazard areas.** The planning director shall have the authority to waive specific requirements or impose additional requirements in unique or special circumstances to ensure the fulfillment of the stated purpose of this chapter and to allow for flexibility and innovation of design. Special circumstances or unique conditions shall be reviewed with the planning director prior to submittal of the development plan. Examples of special conditions might include:
   a. Preservation of unique wildlife habitat.
   b. Preservation of natural or native areas.
   c. Compliance with special easements.
   d. Unique site uses.

4. **Vehicular and pedestrian access.** In situations where vehicular or pedestrian access cannot reasonably be provided by avoiding identified watercourses, then such access shall be allowed in the form of a vehicular or pedestrian bridge. Construction of any bridge shall be subject to the approval of the public works department regarding storm drainage and hydraulics, and guidelines and recommendations of the state department of fisheries and game.
SECTION 2. If any one or more sections, sub-sections, 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. 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]
JIM WHITE, MAYOR

ATTEST:

[Brenda Jacober]
BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

[Signature]
ROGER A. LUUBOVICH, CITY ATTORNEY

PASSED 17 day of September, 1996.
APPROVED 17 day of September, 1996.
PUBLISHED 20 day of September, 1996.
I hereby certify that this is a true copy of Ordinance No. 3312, 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

STREAM9.ORD