Ordinance No. 3751

(Amending or Repealing Ordinances)

CFN=131 – Zoning Codes
Passed – 5/17/2005
Amend Shoreline Master Program
Re: Appeal Procedures & Threshold for Substantial Development
ORDINANCE NO. 3751

AN ORDINANCE of the City Council of the City of Kent, Washington, amending sections 2.0, 7.3, and 7.5 of the Shoreline Master Program to correct inconsistencies in appeal provisions and raise the threshold for shoreline substantial development.

RECITALS

A. In 2001 when the City updated code provisions relating to the administration of development regulations, the amendments made to procedures for appeals did not carry over into other programs addressing appeal procedures. This ordinance amends the appeal provision in section 7.5 of the Shoreline Master Program to be consistent with what was approved in Ordinance No. 3574 passed on September 18, 2001.

B. This ordinance also updates sections 2 and 7.3 of the Shoreline Master Program to reflect the amendment to RCW 90.58.030 increasing the dollar amount for substantial development from two thousand five hundred dollars ($2500) to five thousand dollars ($5000).

C. On April 4, 2005, the City sent the required notification under RCW 36.70A.106 to the state of Washington of the proposed amendment to the Shoreline Master Program.

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Master Program and requested expedited review. Expedited review was received and granted on April 20, 2005.

D. On April 25, 2005, the Land Use & Planning Board held a public hearing on the issue and at the conclusion of the public hearing the Land Use & Planning Board forwarded a recommendation to the Kent City Council.

E. On May 17, 2005, the City Council voted to amend sections 2.0, 7.3, and 7.5 of the Shoreline Master Program to correct inconsistencies in the appeal provisions and raise the dollar threshold for shoreline substantial development.

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

ORDINANCE

SECTION 1. – Amendment. Section 2, of the Shoreline Master Program, entitled “Definitions,” is amended as follows:

Sec. 2. Definitions.

... Substantial Development Any development of which the total cost or fair market value, whichever is higher, exceeds five thousand two hundred and five hundred dollars ($2,500,000), or any development which materially interferes with the normal public use of the water or shorelines of the state; except for those uses excepted from the definition of substantial development by RCW 90.58.030(3)(c)(i)-(xi) and WAC 173-27-040. These exemptions are listed in Section 7.3 of Chapter 7: Administration. See also Development and Exemption.
**SECTION 2.** – Amendment. Section 7.3 of the Shoreline Master Program, entitled “Exemptions”, is amended as follows:

**Sec. 7.3.** EXEMPTIONS.

Certain developments are exempt from the requirement to obtain a substantial development permit. Such developments still may require a variance or conditional use permit, and all development within the shoreline is subject to the requirements of the Shoreline Master Program, regardless of whether a substantial development permit is required. Developments which are exempt from requirement for a 173-27-040 and include the following

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed two thousand five hundred five thousand dollars, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;

**SECTION 3.** – Amendment. Section 7.5 of the Shoreline Master Program, entitled “Appeals”, is amended as follows:

**Sec. 7.5.** APPEALS.

1. Local appeals. Any decision made by the Administrator on a substantial development permit, or by the Hearing Examiner on a conditional use or variance permit shall be final unless an appeal is made. Decisions may be appealed to the City

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Council by the applicant, or a private or public organization or individual. Appeals shall be processed in accordance with Kent City Code Section 12.01.190. Such appeal must be filed with the City Clerk and the Administrator within fourteen (14) calendar days of the decision being appealed, and must be accompanied by the required filing fee. Any appeal of the final decision shall be pursuant to the appeal provisions of Ch. 12.01 KCC and 7.5(2) below.

2. Shoreline Hearings Board. After the local appeals process has been exhausted, persons aggrieved by the grant, denial, rescission or modification of a permit may file a request for review by the Shoreline Hearings Board in accordance with the review process established by RCW 90.58.180, and with the regulations of the Shoreline Hearings Board contained in Ch. 461-08 WAC. The request for review must be filed with the Hearing Board within twenty-one (21) days of the date of filing of the local permit decision with the Department of Ecology.

SECTION 4. – Savings. The existing sections 2, 7.3, and 7.5 of the Shoreline Master Program which are amended by this ordinance, shall remain in full force and effect until the effective date of this ordinance.

SECTION 5. – 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 portions of this ordinance and the same shall remain in full force and effect.

SECTION 6. – Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after passage as provided by law.
I hereby certify that this is a true copy of Ordinance No. 3751 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