Ordinance No. 3909

(Amending or Repealing Ordinances)

CFN=961-Growth Management Plan
Passed – 2/3/09
Flood Hazard Regulations Amend Ch. 14.09 KCC


Amends Ords. 2867;3228;3232;3746
ORDINANCE NO. 3909

AN ORDINANCE of the City Council of the City of Kent, Washington, amending Chapter 14.09, of the Kent City Code, entitled "Flood Hazard Regulations," in order to revise the floodplain management and compliance provisions and make them consistent with state and federal regulations.

RECITALS

A. The City of Kent’s flood hazard regulations are in Chapter 14.09 of the Kent City Code. The City’s regulations must comply with the Federal Emergency Management Agency (FEMA) Community Rating System (CRS) Program. These amendments to 14.09 bring the City into compliance.

B. These amendments are also based on new hydraulic and hydrologic data available from FEMA, in the form of a preliminary Flood Insurance Rate Map (FIRM) and the King County river and Floodplain Management Unit hydraulic modeling in review of the preliminary FIRM. The City’s flood management policies invoke the need for continued review and update to ensure that public health, safety and general welfare are protected from flood conditions.
NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

ORDINANCE

SECTION 1. - Amendment. Section 14.09.010 of the Kent City Code, entitled "Definitions," is amended as follows:

Sec. 14.09.010. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A. Appeal means a request for review of any final action pursuant to this chapter, or of the interpretation of any provision of this chapter by any city official.

B. Area of shallow flooding means the land within the floodplain where the base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

C. Area of special flood hazard means the land within the floodplain which is subject to a one (1) percent or greater chance of flooding in any given year.

D. Base flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year, also referred to as the one hundred (100) year flood.
E. **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 other qualified person or agency as described in this chapter.

F. **Basement** means any area of the building having its floor subgrade (below ground level) on all sides.

G. **Best Available Data** means 1) the data provided by the Federal Emergency Management Agency in a scientific and engineering report entitled Flood Insurance Study for King County, Washington and Incorporated Areas, dated June 16, 1995, with accompanying flood insurance maps and any subsequent revisions thereto, or 2b) hydrologic and hydraulic analyses performed in accordance with standard engineering practice and in accordance with FEMA standards contained in 44 C.F.R. Part 65.

H. **Critical facility** means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to: schools, nursing homes, hospitals, police, fire, and emergency response installations; and public and private facilities which produce, use, or store hazardous materials or hazardous waste as defined by the State Department of Ecology.

I. **Development** means any proposed or actual manmade changes to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations located within flood hazard areas and other site preparation activities, or storage of materials or equipment.

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J. *Director* means the director of the department of public works of the city.

K. *Fill* means deposition of earth material by artificial means.

L. *Flood* or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters;
2. The unusual and rapid accumulation of runoff of surface water from any source.

M. *Flood insurance rate map (FIRM)* means the official map on which the federal flood insurance administration has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

N. *Flood insurance study* means the official report 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.

O. *Flood protection elevation* means that the finished floor of any structure must be a minimum of 2 feet above the base flood elevation.

P. *Flood season* means the period from November 1st to March 31st 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.
Q. *Floodplain* means that portion of a river or stream channel and adjacent lands which are subject to the base flood flooding.

R. *Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

S. *Floodway fringe* means that portion of a floodplain which is not floodway.

T. *Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

U. *Manufactured home* means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.
V. Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

W. No net fill means that if any fill is brought on to a site for the construction of a structure or access road then an equal amount of soil/material will be removed from the site. Fill must be obtained from the same site, to the extent practicable. The soil removed must be from within the boundaries of the site, to the extent practicable, and from within the special flood hazard area. If not practical, soil could be removed from property in the immediate vicinity and within the special flood hazard area.

X. New construction means structures for which the “start of construction” commenced on or after the effective date of the ordinance codified in this chapter.

Y. “Recreational Vehicle” means a vehicle, which is:
   1. Built on a single chassis;
   2. 400 square feet or less when measured at the largest horizontal projection;
   3. Designed to be self-propelled or permanently towable by a light duty truck; and
   4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Z. Special flood hazard area means those land and water areas identified by the Federal Insurance Administration in a report entitled The Flood Insurance Study for King County, Washington and Incorporated
Areas, dated September 30, 1989, with accompanying pages on file with King County or the department of public works of the city.

AA. *Start of construction* includes substantial improvement, and means the date a building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include submission of an application for development, land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

BB. *Structure* means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

CC. *Substantial improvement* means any repair, remodeling, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the appraised fair market value of the structure either:

1. Before the improvement or repair is started; or
2. 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.

SECTION 2. - Amendment. Section 14.09.060, entitled “Basis for establishing the areas of special flood hazard,” of the Kent City Code is amended as follows:

Sec. 14.09.060. Basis for establishing the areas of special flood hazard. The basis for establishing the area of special flood hazard is the areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled Flood Insurance Study for King County, Washington and Incorporated Areas, dated June 16, 1995, with accompanying flood insurance maps and any subsequent revisions thereto (the “flood insurance study”), which is hereby adopted by reference and declared to be a part of this chapter as if stated verbatim; or the use of best available data as defined in this chapter. The flood insurance study is on file and available for examination at the office of the department of public works.

SECTION 3. - Amendment. Section 14.09.150, entitled “Designation of local administrator,” is amended as follows:
Sec. 14.09.150. Designation of local administrator. The public works director or his/her designee is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

Duties of the administrator shall include, but not be limited to:

A. Permit review.

1. Review all development permits to determine that the permit requirements of this chapter have been satisfied.

2. Review all permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.

3. Review all permits to determine if the proposed development is located within a floodway. If proposed development is located within a floodway, ensure that KCC 14.09.180 is enforced.

B. Use of other base flood data (in A and V zones).

1. When base flood elevation data has not been provided (A and V zones) in accordance with KCC 14.09.060, the public works director or his/her designee shall obtain, review and reasonably utilize any best available data, base flood elevation and floodway data available from a federal, state or other source to administer this title.

C. Information to be obtained and maintained.

1. Where base flood elevation data is provided through the flood insurance study, FIRM, or required as in KCC 14.09.140, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
2. For all new or substantially improved floodproofed structures where base flood elevation data is provided through the flood insurance study, FIRM, or as required in KCC 14.09.140:
   a. Obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed; and
   b. Maintain floodproofing certifications required pursuant to this chapter.
3. Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Alteration of watercourses.
   1. Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, submit evidence of such notification to the Federal Insurance Administration.
   2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E. Interpretations of FIRM boundaries. Make interpretations where needed, as to exact location of boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the actual boundary shall be given reasonable opportunity to appeal the interpretation as provided for in KCC 14.09.210.

SECTION 4. - Amendment. Section 14.09.170, entitled “Specific standards,” is amended as follows:
Sec. 14.09.170. Specific standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in KCC 14.09.060 or 14.09.140, the following provisions are required:

1. **Residential construction.**
   
a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one (1) foot or more above base flood elevation to the flood protection elevation.

   b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

      i. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed areas subject to flooding shall be provided.

      ii. The bottom of all openings shall be no higher than one (1) foot above grade.

      iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

2. **Nonresidential construction.** New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated one (1) foot or more above the level of the base flood elevation to the flood protection elevation; or, together with attendant utility and sanitary facilities, shall:
a. Be floodproofed so that below one (1) foot above the base flood level to the flood protection elevation so that the structure is watertight with walls substantially impermeable to the passage of water;
b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in KCC 14.09.150(C)(2);
d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (1)(b) of this section;
e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g., a building floodproofed to one (1) foot above the base flood level will be rated as at the base flood level).

3. **Critical facility.** Construction of new critical facilities shall be, to the extent possible, located outside the limits of the base floodplain. Construction of new critical facilities shall be permissible within the base floodplain if no feasible alternative site is available. Critical facilities constructed within the base floodplain shall have the lowest floor elevated to three (3) feet or more above the level of the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base floodplain shall be provided to all critical facilities to the extent possible.
4. **Manufactured homes.** All manufactured homes to be placed or substantially improved within zones A1 - 30, AH, and AE on the community’s FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one (1) foot or more above the base flood elevation at the flood protection elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of KCC 14.09.160 (1)(b).

5. **Recreational vehicles.** Recreational vehicles placed on sites are required to meet all applicable provisions of the Kent City Code. If allowed by code, recreational vehicles are required to either:
   - a. Be onsite for fewer than one hundred eighty (180) days;
   - b. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
   - c. Meet the requirements of KCC 14.09.160(1) and the elevation and anchoring requirements for manufactured homes.

6. **Drainage around structures.** Adequate drainage paths are required around structures on slopes to guide waters around and away from proposed structures.

**SECTION 5. - Amendment.** Chapter 14.09 of the Kent City Code, regarding Flood Hazard Regulations is amended to add a new section 14.09.175, entitled “Compensatory Storage,” as follows:
Sec. 14.09.175. Compensatory storage. There is hereby established a "Compensatory Storage" section as follows:

A. Except as provided in subsection (B) of this section, within the floodplain of the areas of special flood hazard, the following provisions apply:
   1. Applicants shall provide onsite replacement of 100% of the storage area lost to encroachments so that there is no increase in flood levels during the occurrence of the base flood discharge. Encroachments include fill, new construction, substantial improvements, and other development. No net fill in the floodway fringe shall be allowed.
   2. If an applicant seeks to provide off site replacement of 100% of the storage area lost to encroachments so that there is no increase in flood levels during the occurrence of base flood discharge, the applicant must submit certification by a registered professional engineer or architect demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge, and the offsite replacement location must be located within the same watershed that the encroachment is occurring.
   3. If subsection (1) or (2) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of KCC 14.09.170.

B. Within the lower Mill Creek floodplain delineated on the Flood Insurance Rate Map Panels 969, 1232, and 1251 as a floodway:

   1. Applicants shall provide onsite replacement of 100% of the storage area lost to encroachments so that there is no increase in flood levels during the occurrence of the base flood discharge. An alternative is to construct such that no net fill is placed on site.
2. If an applicant seeks to provide off site replacement of 100% of the storage area lost to encroachments so that there is no increase in flood levels during the occurrence of base flood discharge, the applicant must submit certification by a registered professional engineer or architect demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge, and the offsite replacement location must be located within the same watershed that the encroachment is occurring.

3. If subsection (1) or (2) of this section is satisfied, all residential construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of KCC 14.09.170

SECTION 6. – Section 14.09.180 entitled “Floodways,” is amended as follows:

Sec. 14.09.180. Floodways. Within the floodway of the areas of special flood hazard, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. Construction or reconstruction of residential structures is prohibited within designated floodways, except for: repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and repairs, reconstruction, or improvements to a structure, the cost of which does not exceed fifty (50) percent of the

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market value of the structure either before the repair, reconstruction, or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historic places shall not be included in the fifty (50) percent determination.

3. If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of KCC 14.09.170.

**SECTION 7. - Severability.** If any one or more section, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

**SECTION 8. - Effective Date.** This ordinance shall take effect and be in force thirty (30) days from passage as provided by law.

[Signed] Suzette Cooke, Mayor

ATTEST:

[Brenda Jacober]

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

[Tom Brubaker]

TOM BRUBAKER, CITY ATTORNEY

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I hereby certify that this is a true copy of Ordinance No. 3709 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

(FIELD, SEAL)

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