ORDINANCE NO. 3991

AN ORDINANCE of the City Council of the City of Kent, Washington, adding a new section .200 to Chapter 9 38 of the Kent City Code which provides for a safe, upland location for parking trucks carrying hazardous materials during a flood emergency; providing a process for issuing, denying and revoking the permits for the parking zone; and creating an infraction for violations.

RECITALS

A. Many businesses in Kent use and store materials that would pose a threat to the environment and public health and safety during a flood emergency.

B. While it is the responsibility of the affected owners and operators to secure such hazardous material, moving the material represents substantial cost and disruption.

C. The City Fire Marshal and the City Emergency Manager have recommended that, to the extent possible, the City provide safe, upland parking for trucks carrying hazardous materials from city businesses during an emergency flood event to limit the possibility of hazardous materials release and to lessen the costs and disruptions associated with moving the materials.

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

ORDINANCE

SECTION 1. - New Section. The following new section, 9.38 200, entitled "Flood emergency hazardous materials parking zone," is added to chapter 9.38 of the Kent City Code as follows:

9.38.200 Flood Emergency hazardous materials parking zone.

A. Purpose of the flood emergency hazardous materials parking zone. The city establishes this flood emergency hazardous materials parking zone (FEHMPZ) program for the purpose of providing upland parking for commercial motor vehicles carrying hazardous materials, as hereinafter defined, from city businesses when such materials must be relocated to avoid potential hazardous materials release. This program will allow for hazardous material truck parking on certain upland public right of way to the extent of available capacity. This program does not excuse any person or entity responsible for hazardous materials from proper protection, handling and storage of such hazardous materials.

B. Definitions.

1. Flood emergency means an emergency declared by the mayor, the county executive, the governor or federal officials by reason of floods or potential floods in the vicinity of the City.

2. Hazardous material means a substance or material which has been determined by the Secretary of Transportation to be capable of
posing a risk to health, safety, and property when transported in commerce, and which has been so designated.

3. Commercial motor vehicle means any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle:

   a. Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or
   b. Is designed or used to transport more than 8 passengers (including the driver) for compensation; or
   c. Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
   d. Is used in transporting material found by the Secretary of Transportation to be hazardous under Title 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under Title 49 CFR, subtitle B, chapter I, subchapter C.

C. Flood emergency hazardous materials parking zone established. Up to three lanes of South 231st Street west of the Green River bridge to the intersection of Military Road South.

D. FEHMPZ Manager. The city emergency manager shall administer the FEHMPZ program as set forth in this section. The duties of the FEHMPZ manager may be carried out by more than one (1) person and may be delegated to the fire prevention staff as appropriate. The FEHMPZ manager will adopt such rules and procedures as are necessary for notice of availability of the FEHMPZ for parking and for its management.

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E. **FEHMPZ Permits.** When properly issued and displayed, a FEHMPZ permit, in the form of a hang tag, will authorize a vehicle to park within the FEHMPZ during a flood emergency. The permit will not guarantee a parking place nor shall it allow the permitted vehicle to block private access to abutting properties or fire zones. The FEHMPZ manager will determine the capacity of the FEHMPZ zone and issue, on a first come-first served basis, only so many permits as the FEHMPZ will accommodate vehicles.

F. **Permit eligibility.**
   1. **Kent businesses.** Permits will be issued only to owners of licensed city businesses which business shall require the use and/or storage of hazardous materials.
   2. **Vehicles.** Each permit will be issued for a specific commercial motor vehicle. Vehicles with trailers will be required to remain attached during the duration of their use of the FEHMPZ. Vehicles and trailers will be required to have their wheels chocked.
   3. **Government Vehicles.** Government vehicles will be permitted to park in the FEHMPZ without permits.

G. **Use and Validity of Permits, Fee.**
   1. The FEHMPZ permit shall be valid only if the hang tag is hung from the vehicle's rearview mirror and only so long as the permit holder owns or controls the vehicle and maintains the business for which the permit was issued.
   2. Each permit, unless terminated under subsection (1) of this section or revoked by the FEHMPZ manager shall expire on June 30th of each calendar year.

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3. A one hundred dollar ($100) administrative fee shall be charged for each permit issued to help defray the cost of administering the FEHMPZ program.

H. Issuance of permits.
1. Each permit applicant shall submit an application to the FEHMPZ manager along with a copy of the business license and vehicle registration(s). The application shall be upon a city form with such information as the FEHMPZ manager shall require. Such information shall include, but not be limited to proof of insurance as required by the city Risk Manager. Upon request, the applicant will appear in person to show the original business license and vehicle registration(s). Each applicant shall agree, in writing, that submission of an application is not a guarantee of a parking place and does not excuse any compliance with any state, local or federal regulations respecting hazardous materials or otherwise.

2. The FEHMPZ manager shall issue up to two permits suitable for display for each approved application to Kent businesses that are members of the Local Emergency Planning Committee. Other Kent businesses will then be issued permits on a first come-first served basis until capacity within the FEHMPZ is exhausted.

3. Each permit shall show the date of expiration together with a license plate number and such other information as the EHMPZ manager shall require.

I. Revocation or Denial of Permits-Cause. Any of the following shall be cause for the denial or revocation of the FEHMPZ permit.
1. The unavailability of capacity in the FEHMPZ.
2. A false or misleading statement in the application for permit.
3. The transfer of a permit to an unauthorized business or vehicle by sale or otherwise.

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4. The alteration of a permit in any respect.

J. Revocation or denial or permit-process. If the FEHMPZ manager finds that a FEHMPZ permit should be revoked or denied for any of the reasons set forth in subsection (I) of this section, the FEHMPZ manager will send a written notice of revocation or denial to the permit holder at the business address, which notice shall contain the following information.

1. That the permit is denied or will be revoked not sooner than ten (10) calendar days from the date of the letter.
2. The reasons for the permit revocation or denial.
3. That unless a written notice of appeal is filed with the FEHMPZ manager not later than ten (10) calendar days from the date of the notice of revocation or denial, the permit will be deemed finally revoked or denied.
4. That the basis for the appeal must be contained in the written notice of appeal.

K. Revocation or Denial-Appeal. An applicant aggrieved by the FEHMPZ manager’s revocation or denial of a permit may file a notice of appeal with the FEHMPZ manager who shall submit the same to the city hearing examiner. The hearing examiner, upon consideration of the written documentation submitted in the notice of revocation or denial and the notice of appeal will affirm, reverse or remand the revocation or denial.

L. Violation-Penalty. Any violation of this section shall be an infraction punishable by a monetary penalty of fifty dollars ($50) Vehicles parked in violation of this section during an emergency flood event are subject to impoundment as provided by law. Provided, however, that all other rules and regulations regarding traffic, transportation and the public right of way...
will be in effect during such times as an emergency flood event is not in effect.

**SECTION 2. - Severability.** If any one or more sections, 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 3. - Corrections by City Clerk or Code Reviser.** Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

**SECTION 4. - Effective Date.** This ordinance shall take effect and be in force thirty (30) days from and after its passage as provided by law.
PASSED: 15 day of February, 2011.
APPROVED: 15 day of February, 2011.
PUBLISHED: 18 day of February, 2011.

I hereby certify that this is a true copy of Ordinance No. 3991 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
(SEAL)
BRENDA JACOBER, CITY CLERK]