

**ORDINANCE NO. 4361**

**AN ORDINANCE** of the City Council of the City of Kent, Washington, repealing and readopting Chapter 14.09 of the Kent City Code entitled "Flood Hazard Regulations," to reorganize the chapter, update definitions and other provisions to align with the applicable federal regulations, establish a Flood Zone Permit and create additional enforcement provisions allowing for more flexibility, and amending section 11.03.720 to update references to Chapter 14.09.

**RECITALS**

A. The City of Kent Flood Hazard Regulations were established to promote public health, safety and general welfare for all development activities taking place within federally regulated special flood hazard areas, and to ensure the availability of flood insurance policies through the National Flood Insurance Program. The City of Kent began regulating development within Special Flood Hazard Areas on January 15<sup>th</sup>, 1980.

B. The City of Kent Flood Hazard Regulations are derived, in part, from the Code of Federal Regulations (CFR) for the National Flood Insurance Program: 44 CFR Parts 59,60, 65 and 70.

C. The adoption of flood hazard regulations allows for more accurate determination of impacts to special flood hazard areas, which in turn assures that development activities are in accordance with item A of these recitals.

D. This ordinance updates definitions and other provisions to align with the applicable federal regulations and definitions; establishes a Flood Zone Permit; and updates the enforcement section, making additional remedies available under Chapter 1.04 of the Kent City Code.

E. On June 19, 2020, the City's SEPA Responsible Official issued a Determination of Non-Significance for the proposed code amendment.

F. At its regularly-scheduled meeting on July 7, 2020, the City Council held a public hearing regarding the proposed code amendments and, after considering the matter, voted to adopt a new chapter 14.09 of the Kent City Code.

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

### **ORDINANCE**

**SECTION 1.** - *Repeal.* Chapter 14.09 of the Kent City Code, entitled "Flood Hazard Regulations," is hereby repealed in its entirety.

**SECTION 2.** - *New Chapter.* A new Chapter 14.09 of the Kent City Code, entitled "Flood Hazard Regulations," is hereby enacted as follows:

**Chapter 14.09**  
**FLOOD HAZARD REGULATIONS**

**Section 14.09.010. Purpose.** It is the purpose of this chapter 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 and costly 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 or seek to develop in flood hazard areas assume responsibility for their actions;
- I. Qualify the City and existing homes and businesses for participation in the National Flood Insurance Program;
- J. Implement local, state, and national flood protection programs; and
- K. Minimize prolonged business interruptions.

**Section 14.09.020. 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. *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*.
- C. *Base flood elevation* means the actual elevation (in mean sea level) of the water surface of the base flood determined by the Federal Emergency Management Agency (FEMA) or other qualified person or agency as described in this chapter.
- D. *Basement* means any area of the building having its floor subgrade (below ground level) on all sides and does not meet the requirements of KCC 14.09.130(H).

E. *Best available data* means: (1) the data provided by FEMA in a scientific and engineering report entitled Flood Insurance Study for King County, Washington and Incorporated Areas, dated August 19, 2020, along with the accompanying flood insurance rate map (FIRM), including any subsequent revisions thereto; or (2) 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.

F. *Building*. See *Structure*.

G. *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.

H. *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 the special flood hazard area and other site preparation activities, storage of materials or equipment, removal of substantial amounts of vegetation, or alteration of natural site characteristics.

I. *Department* means the City of Kent Economic and Community Development Department.

J. *Director* means the City of Kent Economic and Community Development Director or the Director's designee.

K. *Fill* means the addition of soil, sand, rock, gravel, sediment, walls, structures and their associated internal volume, or other 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 any of the following items or a combination thereof:

1. The overflow of inland or tidal waters;

2. The unusual and rapid accumulation or runoff of surface waters from any source;

3. Mudslides (i.e., mudflows) which are proximately caused by the unusual and rapid accumulation or runoff of surface waters from any source and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current;

4. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in KCC 14.09.020(L).

M. *Flood fringe* means the portion of the special flood hazard area outside of the floodway which is generally covered by floodwaters during the base flood.

N. *Flood insurance administrator (FIA)* means the official title under the law of the person who is in charge of the Federal Insurance and Mitigation Administration who is responsible for providing the data upon which floodplain management regulations shall be based and providing a notice of final base flood elevations within Zones AE and AH on the City's FIRM and, has provided data from which the City shall designate its regulatory floodway.

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

P. *Flood insurance study (FIS)* means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards provided to communities by the FIA. Also known as the *Flood Elevation Study*.

Q. *Flood proofing* means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

R. *Flood protection elevation* means a minimum of two feet above the base flood elevation, except for critical facilities where the minimum is three feet above the base flood elevation.

S. *Flood season* means the period from October 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.

T. *Floodplain* means any land area susceptible to being inundated by water from any source. See *Flood* or *Flooding*.

U. *Floodplain management* means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

V. *Floodplain management regulations* mean the application of police power for state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

W. *Floodway* means the channel of a river or other watercourse and the adjacent land areas designated on the FIRM that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as *Regulatory Floodway*.

X. *Historic structure* means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;



3. Individually listed on a state inventory of historic places by the Washington State Department of Archaeology and Historic Preservation (DAHP); or

4. Individually listed on a local inventory of historic places as part of a historic preservation program that has been certified by either DAHP or the Secretary of the Interior.

Y. *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.

Z. *Manufactured home* means a structure, used for residential or commercial purposes, transportable in one 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 180 consecutive days. For insurance purposes the term *manufactured home* does not include park trailers, travel trailers, and other similar vehicles.

AA. *Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

BB. *Mean sea level* means for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other

datum, to which base flood elevations shown on a community's FIRM are referenced.

CC. *New construction* means for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

DD. *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. Earthen 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. The area from which the soil is removed must be able to drain completely into the adjoining watercourse following a flood.

EE. *Recreational vehicle* means a vehicle which is:

1. Built on a single chassis;
2. Four hundred 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.

FF. *Start of construction* means the date a building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other substantial improvement was within 180 days after the permit issuance 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 or land preparation, such as clearing, grading, and filling; nor does it include the installation of streets 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. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

GG. *Structure* means that which is built or constructed, or an edifice or building of any kind or any piece of work composed of parts joined together in some definite manner, and includes posts for fences and signs. It specifically includes buildings that are not fully enclosed on all sides where the orientation may affect the flow of floodwaters, but does not include mounds of earth or debris. For floodplain management purposes a structure means, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

HH. *Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

II. *Substantial improvement* means any remodeling, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the appraised fair market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct an existing violation of state or local health, sanitary, or safety code specifications, previously identified by a local code enforcement official, and which is the minimum necessary to assure safe living conditions; or

2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

JJ. *Variance* means a grant of relief by the City from the terms of a floodplain management regulation.

KK. *Violation* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as the required documentation is provided.

LL. *Water surface elevation* means the height, in relation to the NAVD of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Section 14.09.030. Policies and standards for reducing flood losses.** In order to accomplish its purpose, this chapter includes policies and standards to:

A. Restrict, condition, 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 development, new construction and substantial improvements;

C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;

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 floodwaters or which may increase flood hazards in other areas.

**Section 14.09.040. Lands to which this chapter applies.** This chapter shall apply to all special flood hazard areas within the jurisdiction of the City.

**Section 14.09.050. Basis for establishing the special flood hazard areas.** The special flood hazard areas are identified by the FIA in a scientific and engineering report entitled "The Flood Insurance Study for King County, Washington and Incorporated Areas", dated August 19, 2020, along with the accompanying FIRM, including any subsequent revisions thereto, which is hereby adopted by reference and shall be given the same force and effect as if set forth herein in full; or they are identified in the best available data as defined in this chapter. The FIS and FIRM are on file and available for examination at the office of the Department of Public Works.

**Section 14.09.060. Abrogation and greater restrictions.** This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**Section 14.09.070 Interpretation.** In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

**Section 14.09.080. Warning and disclaimer of liability.** The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does

not imply that land outside the special flood hazard areas or uses permitted within such area will be free from flooding or flood damages. This chapter shall not create liability on the part of the City, its elected officials or any officer or employee thereof, or the FIA, for any flood damages that result from reliance on this chapter or any administration decision lawfully made hereunder.

**Section 14.09.090. Permits and licenses.** No permit or license for structures or the development or use of land shall be issued by the City within a special flood hazard area unless approved by the Director. 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 and divisions, including, but not limited to, Economic and Community Development, building, fire, and planning. Compliance with this chapter does not obviate the need to obtain other permits which may be required pursuant to state or federal law including but not limited to approvals required from the United States Army Corps of Engineers and the State Departments of Social and Health Services and Ecology relating to water and sewer systems which ensure that water and sewer systems will be designed to avoid infiltration, inflow, or impairment.

**Section 14.09.100. Procedural requirements.** Applications for City Flood Zone Permits (REFZ) shall be referred to the Department for review and then to the Director for approval. If it can be determined from information at hand that the property is not located in a special flood hazard area, the Director may approve the permit directly. If it is determined that any portion of the property is located within the floodway or within the flood fringe, the applicant shall be required by the Department to submit such surveys, plans, and supporting documents as identified on the REFZ application form to determine the applicability of city regulations to the

proposed structure, development, or use. Whenever technical information is furnished to the City by an applicant, the City shall consider such report in acting upon the requested permit. In performing such review, the Department may request additional applicant information determined to be relevant in considering the application. The Director shall, within a reasonable time, indicate approval or disapproval of the requested permit or license; and if approved, the Director shall transmit all conditions of approval in a letter to the Department for further distribution to the applicant, commenting departments, other agencies, and other known parties of record.

A. REFZ shall be obtained before construction or development begins, including placement of manufactured homes, within any special flood hazard area established in Section KCC 14.09.050. Application for REFZ may be made on forms furnished by the Director. Specifically, the following information is required:

1. Proposed elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
2. Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed;
3. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section KCC 14.09.130(B); and
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
5. Such other information as the Director determines would be relevant in considering the application.



**Section 14.09.110. Designation of floodplain administrator.**

The Director is hereby appointed as the floodplain administrator and will administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

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

**A. *Permit review.***

1. Review all REFZ 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.

**B. *Obtaining and Maintaining Information.***

1. Where base flood elevation data is provided through a flood insurance study or FIRM, the Director shall obtain and maintain 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 a flood insurance study or FIRM, the Director shall:

a. Obtain and maintain 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. The Director shall maintain for public inspection all records pertaining to this chapter, to the extent required by Chapter 1.05 KCC and Chapter 42.56 RCW.

C. *Alteration of watercourses.*

1. Prior to any alteration or relocation of a watercourse, notify communities adjacent to the watercourse and the Department of Ecology, and submit evidence of such notification to the Federal Insurance Administrator.

2. Assure that the flood carrying capacity of the altered or relocated portion of the watercourse is maintained.

D. *Interpretations of FIRM boundaries.* Make interpretations, where needed, as to exact location of boundaries of the special flood hazard areas (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 14.09.160.

**Section 14.09.120. General standards.** In all special flood hazard areas, the following standards are required:

A. *Anchoring.*

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and

2. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's *Manufactured Home Installation in Flood Hazard Areas Guidebook* for additional techniques).

B. *Construction materials and methods.*

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and constructed, to the flood protection elevation so as to prevent water from entering or accumulating within the components during conditions of flooding.

4. Basements that do not meet the requirements of KCC 14.09.130(H) to be classified as a crawlspace are not permitted in the special flood hazard areas for any new structures, additions to existing structures or substantially improved structures, unless the bottom of the basement is elevated to the flood protection elevation.

C. *Utilities.*

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters;

3. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

4. Proposed water wells shall be located on high ground that is not located within a special flood hazard area.

D. *Development proposals.* All new development proposals, including subdivisions and manufactured home parks or subdivisions, 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;

3. Have adequate drainage provided to reduce exposure to flood damage;

4. Include Base Flood Elevation data from the FIRM for all proposals.

5. Preliminary subdivision approval should depict or state what portions of the development are within special flood hazard areas.

E. *Review of building permits.* REFZ applications for developments that also require building permits shall be reviewed by the Department, to help assure proposed construction will be reasonably safe from flooding. The test of reasonableness is a judgment based, in part, on local engineering practices, and includes use of historical data, high-water marks, photographs of past flooding, and other similar evidence, where available.

**Section 14.09.130. Specific standards.** In all special flood hazard areas identified in KCC 14.09.050, the following provisions are required:

A. *Residential construction.*

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to the flood protection elevation.

2. Fully enclosed areas below the lowest floor usable solely for parking, access or storage and 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:

a. A minimum of two openings placed on at least two separate walls and having a total net area of not less than one square inch for every square foot of enclosed areas subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot above grade.

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

B. *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to the flood protection elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed to the flood protection elevation so that 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;

3. 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 Director;

4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (A)(2) of this section 14.09.130;

5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to one foot above the base flood level will be rated as at the base flood level).

C. *Critical facility.* Construction of new critical facilities shall be, to the extent possible, located outside the limits of the floodplain. Construction of new critical facilities shall be permissible within the floodplain if no feasible alternative site is available. Critical facilities constructed within the floodplain shall have the lowest floor elevated to three feet or more above the level of the base flood elevation at the site. Below the lowest floor, 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 flood elevation shall be provided to all critical facilities to the extent possible.

D. *Manufactured homes.* All manufactured homes to be placed or substantially improved within zones, 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 at the flood protection elevation; and be securely anchored to an adequately anchored foundation system in accordance with KCC 14.09.120(A)(2). Openings in accordance with subsection (A) of this section 14.09.130 are required in rigid skirting attached to frames or foundations of manufactured homes to relieve hydrostatic loads and minimize transferring loads that can damage homes and their supporting foundation systems. Installation of skirting does not trigger the requirement for flood openings if the skirting does not provide structural support and will collapse, without causing structural damage to the elevated home or the foundation, under wind and water loads that are less than those expected during the base flood event.

E. *Recreational vehicles.* Recreational vehicles placed on sites are required to meet all applicable provisions of this code. If allowed by code, recreational vehicles are required to either:

1. Be onsite for fewer than 180 days;

2. 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

3. Meet the requirements of KCC 14.09.120(A) and the elevation and anchoring requirements for manufactured homes.

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

G. *Standards for AE zones with base flood elevations but no floodways.* In areas with base flood elevations, if a regulatory floodway has not been designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within Zones AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

H. *Below-grade crawlspace.*

1. The interior grade of a crawlspace must not be below the base flood elevation and must not be more than two (2) feet below the exterior lowest adjacent grade.

2. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four (4) feet at any point.



3. Flood openings are required and must meet the requirements of 14.09.130(A)(2).

4. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event.

5. The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace.

**Section 14.09.140. Compensatory storage.**

A. Within special flood hazard areas, the following provisions apply:

1. Applicants shall provide onsite replacement of 100 percent 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 a special flood hazard area shall be allowed.

2. If an applicant seeks to provide offsite replacement of 100 percent 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 subsections (A)(1) or (2) of this section 14.09.140 is satisfied, all new construction and substantial improvements shall comply

with all applicable flood hazard reduction provisions of KCC 14.09.120 and 14.09.130.

**Section 14.09.150. Floodways.** Within the floodway of special flood hazard areas, the following provisions apply:

A. Encroachments, including fill, new construction, substantial improvements, and other development are prohibited, 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.

B. 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 50 percent of the market value of the structure either before the repair, reconstruction, or improvement is started or, if the structure has been damaged, and is being restored, before the damage occurred. Work done to correct an existing violation of state or local health, sanitary, or safety code specifications, as identified by a local code enforcement official, and which is the minimum necessary to assure safe living conditions, or work done to structures identified as historic places, shall not be included in the 50 percent determination.

C. Projects specifically designed for the enhancement of fish habitat are allowed within the floodway when they meet the following criteria:

1. The project has been designed to minimize impacts to base flood elevations; and

2. It can be demonstrated that any rise in the 100-year flood levels has been kept as close to zero as practically possible through a hydrologic and hydraulic analysis; and

3. The project does not affect any insurable structures.

4. The project complies with other relevant state and city regulations such as the Critical Areas Ordinance (KCC 11.06), Shoreline Master Program and State Environmental Policy Act.

D. If subsections (A) – (C) of this section 14.09.150 are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of KCC 14.09.120 and 14.09.130.

**Section 14.09.160. Appeals.** The decision of the Director to approve, to approve with conditions, or to disapprove a permit or license for work in a special flood hazard area shall be in writing, and may be appealed to the hearing examiner. The requested permit or license shall not be issued during the appeal period. Appeals from the Director’s decision regarding proposals within a special flood hazard area shall be governed by the procedures set forth in KCC 12.01.190 and Chapter 2.32 KCC.

**Section 14.09.170. Variances.**

A. Applications for variances from the strict application of the terms of this chapter to a specific property may be submitted to the City. All variances shall be considered by the hearing examiner as a Process III application, pursuant to Chapter 12.01 KCC. Approval of variances from the strict application of flood hazard regulations shall be consistent with the following criteria:

1. There are unique physical conditions peculiar and inherent to the affected property that make it difficult or infeasible to strictly comply with the provisions of this chapter.

2. The variance is the minimum necessary to accommodate the building or structure footprint and access.

3. The proposed variance would preserve the functions and values of the flood hazard area, and the proposal does not create or increase a risk to the public health, safety, and general welfare, or to public or private property.

4. The proposed variance would not adversely affect properties surrounding the subject site.

5. Adverse impacts to flood hazard areas resulting from the proposal are minimized.

6. The special circumstances of conditions affecting the property are not a result of the actions of the applicant or previous owner.

7. The variance shall not constitute a grant of special privilege.

8. No variance shall be approved within a floodway that would cause an increase in the base flood elevation.

B. Any applicant to whom a variance is granted shall be given written notice by the Director that:

1. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance, and

2. Such construction below the base flood elevation increases risks to life and property.

C. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

**Section 14.09.180. Violations and enforcement – Penalties.**

Any violation of any provision of this chapter may be enforced as provided for in this section. Each separate date, or portion thereof, during which any violation occurs shall constitute a separate violation.

A. Recovery of costs incurred by the City. In addition to any penalty provided for in subsections (B) through (C) of this section 14.09.180, a person who violates any of the provisions of this chapter shall be liable for all costs incurred by the City as a result of the violation. The City will issue an invoice to the person responsible for the violation advising him or her of the amount of costs incurred by the City as a result of the violation. The person to whom the invoice was directed must respond within 14 calendar days of the date the invoice is served upon that person by: (i) paying the invoice, (ii) requesting a hearing before the City’s hearing examiner to mitigate the amount of the invoice, or (iii) requesting a hearing before the City’s hearing examiner to contest the amount of the invoice. Failure to timely respond shall result in the invoice being deemed valid and the City may seek collection of the invoice through the process provided for in Chapter 3.10 of the Kent City Code, including the use of a collection agency. Payment of any invoice issued shall not alleviate the person responsible for the violation from complying with this chapter.

1. Service of notice. Service of an invoice issued under KCC 14.09.180 (A) shall occur and is deemed complete in the same manner and under the same provisions as provided for in KCC 1.04.060.

2. Process to mitigate or contest invoice. The process through which a person may request a hearing to contest or mitigate an invoice issued to him or her as a person responsible for the violation is the same as that provided for Notices of Violation under KCC 1.04.120 through KCC 1.04.190. The hearing examiner's decision as to any invoice issued under KCC 14.09.180(A) is final and may not be further appealed.

3. Failure to pay—Civil infraction. The failure to timely pay an invoice issued under KCC 14.09.180(A), or any mitigated invoice amount set by the hearing examiner, is a separate violation that may be enforced through the issuance of a civil infraction pursuant to KCC 14.09.180(B).

B. Civil infraction. A person who violates any provision of this chapter may be issued a class 1 civil infraction as set forth in RCW 7.80.120, as currently enacted or hereafter amended. An infraction issued pursuant to this section shall be filed in the Kent Municipal Court and processed in the same manner as other infractions filed in the Kent Municipal Court. In addition, a civil code enforcement action may be instituted in accordance with KCC 7.14.150(C) to effectuate any abatement or corrective action required by the person as a result of the violation.

C. Civil code enforcement. In addition to, or as an alternative to any other penalty provided for in this chapter or by law, a civil code enforcement action may be instituted under the provisions provided for in Chapter 1.04 KCC to effectuate any abatement or corrective action required as a result of a violation of this chapter, including the issuance of a stop use or stop work order under KCC 1.04.090 – KCC 1.04.110. The process through which the person responsible for the violation may contest a stop use or stop work order is the same as that provided for Notices of Violation under KCC 1.04.120 through KCC 1.04.190. Failure to timely abate the violation

or take the required corrective action will result in the issuance of a fine in accordance with KCC 1.04.080 and KCC 1.04.200, which fine will be separate and apart from any fine that may have been issued under KCC 14.09.180(B).

**SECTION 3.** – *Amendment – KCC 11.03.720.* Section 11.03.720 of the Kent City Code, entitled “Critical Areas” is hereby amended as follows:

**Section 11.03.720. Critical Areas.** Critical or environmentally sensitive areas, as defined in Chapter 11.06 KCC:

- A. WAC 197-11-908 is hereby adopted by reference.
- B. Wetlands, as defined under KCC 11.06.530, the wetlands inventory, the maps filed under KCC 11.06.050, entitled critical areas maps, and the special flood hazard areas as described in KCC ~~14.09.060~~14.09.050 designate the location of critical areas within the city and are adopted by reference. Within those critical areas, the exemptions of WAC 197-11-800 which are inapplicable are (1), (2)(a) through (i), (3), (6)(d), (23)(a) through (g). Unidentified exemptions shall continue to apply within critical areas of the city.
- C. The scope of environmental review of actions within these areas shall be limited to:
  - 1. Documenting whether the proposal is consistent with the requirements of the critical areas ordinance; and
  - 2. Evaluating potentially significant impacts on the critical area resources not adequately addressed by GMA planning documents and development regulations, if any, including any additional mitigation

measures needed to protect the critical areas in order to achieve consistency with SEPA and with other applicable environmental review laws.

3. All other categorical exemptions apply whether or not the proposal will be located in a critical area.

**SECTION 4.** – *Severability.* If any one or more section, subsection, or sentence of this ordinance is 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 5.** – *Savings.* The existing Chapter 14.09 of the Kent City Code, which is repealed and replaced by this ordinance, shall remain in full force and effect until the effective date of this ordinance.

**SECTION 6.** – *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; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

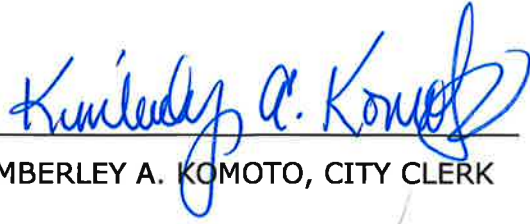
**SECTION 7.** – *Effective Date.* This ordinance shall take effect and be in force 30 days from and after its passage, as provided by law.

  
\_\_\_\_\_  
DANA RALPH, MAYOR

July 7, 2020  
Date Approved

ATTEST:



  
\_\_\_\_\_

KIMBERLEY A. KOMOTO, CITY CLERK

July 7, 2020

Date Adopted

July 10, 2020

Date Published

APPROVED AS TO FORM:

  
\_\_\_\_\_

ARTHUR "PAT" FITZPATRICK, CITY ATTORNEY

clerk

**STATE OF WASHINGTON, COUNTY OF KING }  
AFFIDAVIT OF PUBLICATION  
PUBLIC NOTICE**

Rudi Alcott, being first duly sworn on oath that he is the Vice President of Advertising for Sound Publishing, which publishes the

**Kent Reporter**

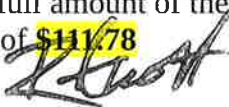
a weekly newspaper, which newspaper is a legal newspaper of general circulation and is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a weekly newspaper in King County, Washington. The Kent- Covington Reporter has been approved as a Legal Newspaper by order of the Superior Court of the State of Washington for King County.

The notice in the exact form annexed was published in regular issues of the Kent- Covington Reporter (and not in supplement form) which was regularly distributed to its subscribers during the below stated period. The annexed notice, a:

**Public Notice**

was published on **June 26, 2020**.


The full amount of the fee charged for said foregoing publication is the sum of **\$111.78**



Rudi Alcott

Vice President, Advertising

Subscribed and sworn to me this **26th day of June, 2020**.

  
Jennifer Tribbett, Notary Public for the State of Washington, Residing in  
Orting, Washington

# Classified Proof

<b>Client</b>	238398 - City of Kent, City Clerk - LEGAL ADS	<b>Phone</b>	(253) 856-5728		
<b>Address</b>	220 Fourth Ave S	<b>E-Mail</b>	kkomoto@kentwa.gov		
	Kent, WA, 98032	<b>Fax</b>			
<b>Order#</b>	900976	<b>Requested By</b>	KIM KOMOTO	<b>Order Price</b>	\$111.78
<b>Classification</b>	3030 - Legal Notices	<b>PO #</b>	PH 7/7	<b>Tax 1</b>	\$0.00
<b>Start Date</b>	06/26/2020	<b>Created By</b>	8289	<b>Tax 2</b>	\$0.00
<b>End Date</b>	06/26/2020	<b>Creation Date</b>	06/12/2020, 02:02:05 pm	<b>Total Net</b>	\$111.78
<b>Run Dates</b>	1			<b>Payment</b>	\$0.00
<b>Publication(s)</b>	Kent Reporter				
<b>Sales Rep</b>	9470 - Jennifer Tribbett	<b>Phone</b>	(360) 802-8212		
		<b>E-Mail</b>	jtribbett@courierherald.com		
		<b>Fax</b>			

**CITY OF KENT  
CITY COUNCIL  
NOTICE OF  
PUBLIC HEARING  
ON AN ORDINANCE  
ADOPTING FLOOD  
HAZARD  
REGULATIONS**

NOTICE IS HEREBY GIVEN that the Kent City Council will hold a public hearing during a regularly-scheduled City Council meeting on Tuesday, July 7, 2020, at 7 p.m. in Kent City Hall Chambers, located at 220 Fourth Avenue South, Kent, WA 98032, (due to COVID-19 and health safety requirements, this meeting may be a remote meeting).

If this is a remote meeting and you wish to present testimony during the public hearing, please contact the City Clerk in advance. Members of the public may submit written comments in advance by regular U.S. Mail to the City Clerk's Office, 220 Fourth Avenue South, Kent, WA 98032, or by electronic mail to [CityClerk@KentWA.gov](mailto:CityClerk@KentWA.gov).

Any written comments must be received no later than 4 p.m. on Tuesday, July 7, 2020, in order to be considered.

Any person requiring a disability accommodation should contact the City Clerk's Office in advance at 253-856-5725.

For TTD relay service, call the Washington Telecommunications Relay Service at 7-1-1.

Kimberley A. Komoto  
City Clerk  
253-856-5725  
[CityClerk@KentWA.gov](mailto:CityClerk@KentWA.gov)  
# 900976  
6/26/20

**STATE OF WASHINGTON, COUNTY OF KING }  
AFFIDAVIT OF PUBLICATION  
PUBLIC NOTICE**

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**Kent Reporter**

a weekly newspaper, which newspaper is a legal newspaper of general circulation and is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a weekly newspaper in King County, Washington. The Kent- Covington Reporter has been approved as a Legal Newspaper by order of the Superior Court of the State of Washington for King County.

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**Public Notice**

was published on **June 26, 2020**.

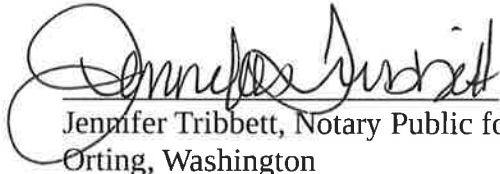
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Rudi Alcott

Vice President, Advertising

Subscribed and sworn to me this **26th day of June, 2020**.



Jennifer Tribbett, Notary Public for the State of Washington, Residing in Orting, Washington



# Classified Proof

<b>Client</b>	238398 - City of Kent, City Clerk - LEGAL ADS	<b>Phone</b>	(253) 856-5728		
<b>Address</b>	220 Fourth Ave S Kent, WA, 98032	<b>E-Mail</b>	kkomoto@kentwa.gov		
		<b>Fax</b>			
<b>Order#</b>	900976	<b>Requested By</b>	KIM KOMOTO	<b>Order Price</b>	\$111.78
<b>Classification</b>	3030 - Legal Notices	<b>PO #</b>	PH 7/7	<b>Tax 1</b>	\$0.00
<b>Start Date</b>	06/26/2020	<b>Created By</b>	8289	<b>Tax 2</b>	\$0.00
<b>End Date</b>	06/26/2020	<b>Creation Date</b>	06/12/2020, 02:02:05 pm	<b>Total Net</b>	\$111.78
<b>Run Dates</b>	1			<b>Payment</b>	\$0.00
<b>Publication(s)</b>	Kent Reporter				
<b>Sales Rep</b>	9470 - Jennifer Tribbett	<b>Phone</b>	(360) 802-8212		
		<b>E-Mail</b>	jtribbett@courierherald.com		
		<b>Fax</b>			

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CITY COUNCIL  
NOTICE OF  
PUBLIC HEARING  
ON AN ORDINANCE  
ADOPTING FLOOD  
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Kimberley A. Komoto  
City Clerk  
253-856-5725  
CityClerk@KentWA.gov  
# 900976  
6/26/20

CLERK

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**Public Notice**

was published on **July 10, 2020.**

The full amount of the fee charged for said foregoing publication is the sum of **\$89.09**



Rudi Alcott  
Vice Presiding, Advertising

Subscribed and sworn to me this **10<sup>th</sup> day of July, 2020 .**



Jennifer Tribbett, Notary Public for the State of Washington, Residing in Orting, Washington





# Classified Proof

Client 238398 - City of Kent, City Clerk - LEGAL ADS  
Address 220 Fourth Ave S  
Kent, WA, 98032

Phone (253) 856-5728  
E-Mail kkomoto@kentwa.gov  
Fax

Order# 902596  
Classification 3030 - Legal Notices  
Start Date 07/10/2020  
End Date 07/10/2020  
Run Dates 1  
Publication(s) Kent Reporter

Requested By KIM KOMOTO  
PO #  
Created By 8289  
Creation Date 07/01/2020, 03:26:17 pm

Order Price	\$89.09
Tax 1	\$0.00
Tax 2	\$0.00
Total Net	\$89.09
Payment	\$0.00

Sales Rep 9470 - Jennifer Tribbett

Phone (360) 802-8212  
E-Mail jtribbett@courierherald.com  
Fax

**CITY OF KENT  
NOTICE OF  
ORDINANCE  
PASSED BY THE CITY  
COUNCIL**

The following is a summary of an ordinance passed by the Kent City Council on July 7, 2020. **ORDINANCE NO. 4361-AN ORDINANCE** of the City Council of the City of Kent, Washington, repealing and readopting Chapter 14.09 of the Kent City Code entitled "Flood Hazard Regulations," to reorganize the chapter, update definitions and other provisions to align with the applicable federal regulations, establish a Flood Zone Permit and create additional enforcement provisions allowing for more flexibility, and amending section 11.03.720 to update references to Chapter 14.09.

This ordinance shall take effect and be in force 30 days from and after its passage, as provided by law.

A copy of the complete text of any ordinance will be mailed upon request of the City Clerk.

Kimberley A. Komoto,  
City Clerk  
Kkomoto@KentWA.gov  
253-856-5725  
#902596  
7/10/20

**STATE OF WASHINGTON, COUNTY OF KING }  
AFFIDAVIT OF PUBLICATION  
PUBLIC NOTICE**

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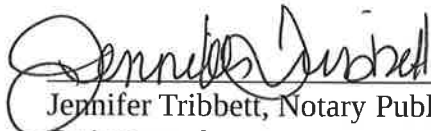
The full amount of the fee charged for said foregoing publication is the sum of **\$89.09**



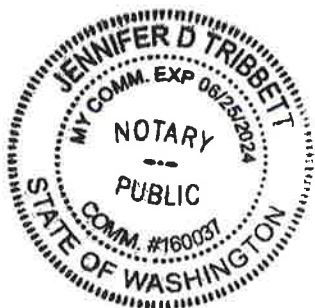
\_\_\_\_\_  
Rudi Alcott

Vice President, Advertising

Subscribed and sworn to me this **10<sup>th</sup> day of July, 2020 .**



\_\_\_\_\_  
Jennifer Tribbett, Notary Public for the State of Washington, Residing in Orting, Washington



# Classified Proof

Client	238398 - City of Kent, City Clerk - LEGAL ADS	Phone	(253) 856-5728
Address	220 Fourth Ave S	E-Mail	kkomoto@kentwa.gov
	Kent, WA, 98032	Fax	

Order#	902596	Requested By	KIM KOMOTO	Order Price	\$89.09
Classification	3030 - Legal Notices	PO #		Tax 1	\$0.00
Start Date	07/10/2020	Created By	8289	Tax 2	\$0.00
End Date	07/10/2020	Creation Date	07/01/2020, 03:26:17 pm	Total Net	\$89.09
Run Dates	1			Payment	\$0.00
Publication(s)	Kent Reporter				

Sales Rep	9470 - Jennifer Tribbett	Phone	(360) 802-8212
		E-Mail	jtribbett@courierherald.com
		Fax	

**CITY OF KENT  
NOTICE OF  
ORDINANCE  
PASSED BY THE CITY  
COUNCIL**

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This ordinance shall take effect and be in force 30 days from and after its passage, as provided by law.

A copy of the complete text of any ordinance will be mailed upon request of the City Clerk.

Kimberley A. Komoto,  
City Clerk  
Kkomoto@KentWA.gov  
253-856-5725  
#902596  
7/10/20