

Repealed by 2010

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO FLOOD CONTROL AND PROVIDING FOR THE CITY'S PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM PURSUANT TO THE NATIONAL FLOOD INSURANCE ACT OF 1968.

WHEREAS, certain areas of the City of Kirkland are potentially subject to periodic flooding, which can cause personal injury and extensive property damage; and

WHEREAS, the National Flood Insurance Program authorized under the National Flood Insurance Act of 1968 provides for insuring development and construction in areas subject to flooding; and

WHEREAS, to participate in the National Flood Insurance Program, the City of Kirkland must enact an ordinance which, in specific ways, regulates the development or substantial improvement of structures within flood hazard areas; and

WHEREAS, under Title 35A of the Revised Code of Washington, the City of Kirkland has the authority to adopt and enforce regulations regarding land use and the construction of structures; and

WHEREAS, under Title 21 of the Kirkland Municipal Code, all new development and substantial improvement to existing structures may only be done if approved through a Building Permit issued by the Building Official. Under Title 22 of the Kirkland Municipal Code, all subdivisions of land--except those where no lot under 5 acres is created--require the approval of the City of Kirkland; and

WHEREAS, an Environmental Checklist was prepared and a Final Declaration of Non-Significance was made pursuant to the requirements of the State Environmental Policy Act (RCW 43.21C; WAC 197-10; and Kirkland Ordinance No. 2473, as amended). This Checklist and Declaration of Non-Significance were available to City Council, and City Council considered this information in taking final action on this recommendation; and

WHEREAS, the City Council of the City of Kirkland finds that participation in the National Flood Insurance Program is in the best interest of the residents of the City as it will safeguard against property damage from flooding thereby eliminating the direct and indirect economic costs to the community and as it will generally promote the public health, safety, and welfare.

BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1: Definitions. The following definitions apply to this Ordinance unless a contrary or different meaning is clearly evident from the context.

1. "Area of Special Flood Hazard" - means the land in the flood plain subject to a base flood.
2. "Base Flood" - means a flood having a 1% chance of being equaled or exceeded in any given year.
3. "Development" - means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.
4. "Flood or Flooding" - means a general and temporary condition of partial or complete inundation of normally dry land areas from--
 - (a) the overflow of inland waters; or
 - (b) the unusual and rapid accumulation of runoff of surface waters from any source.
5. "Flood Boundary and Floodway Map" - means the official map on which the Federal Insurance Administration has delineated areas of special flood hazard, floodways and floodway fringes.
6. "Flood Insurance Rate Map (FIRM)" - means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the flood insurance zones applicable to those areas.
7. "Flood Insurance Study" - means the official report provided by the Federal Insurance Administration that includes flood profiles, flood boundary and floodway map, and the water surface elevations of the base flood.
8. "Flood Insurance Zones" - means the designations indicating the specific flood potential or hazard applicable to areas of special flood hazard.
9. "Floodway" - means the area of special flood hazard containing the channel or portion of a watercourse and the adjacent land areas that must be reserved in order to discharge a base flood without cumulatively increasing the water surface elevation more than one foot.
10. "Floodway Fringe" - means that portion of the area of special flood hazard where a floodway has been designated exclusive of the floodway.

11. "Mobile Home" - means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

12. "New Construction" - means structures for which the start of construction commenced on or after the effective date of this Ordinance.

13. "Start of Construction" - means the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings or any work beyond the grading or filling of the property. It does not include the following:

(a) the installations of streets or walkways.

(b) excavation for basement footings, piers, or foundations or the erection of temporary forms.

(c) the installation of accessory buildings that are not physically attached to the main structure and are not intended or used as dwelling units.

13. "Structure" - means a walled and roofed building or mobile home that is principally above ground.

14. "Substantial Improvement" - means any repair, reconstruction, or improvement of a structure the cost of which equals or exceeds 50% of the market value of the structure, either--

(a) Before the repair, reconstruction, or improvement is started; or

(b) 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 the alteration affects the external dimensions of the structure.

Section 2: Applicability of this Ordinance. This ordinance applies to all development in areas of special flood hazard as delineated on the Flood Insurance Rate Map.

Section 3: Flood Boundary and Floodway Map, Flood Insurance Rate Map and Flood Insurance Study adopted by Reference: The following documents issued by the Federal Insurance Administration on December 15, 1980, are hereby adopted by reference:

1. "Flood Insurance Study, City of Kirkland, Washington, King County."
2. "FIRM, Flood Insurance Rate Map, City of Kirkland, Washington, King County, Community-Panel Number 530081 002 B", effective date: June 15, 1981.
3. "Floodway, Flood Boundary and Floodway Map, City of Kirkland, Washington, King County, Community Panel Numbers 530081 0001-0003," effective date: June 15, 1981.

These documents are on file for public inspection and copying during regular business hours in the Building Department.

Section 4 Administration and Enforcement.

1. The Building Official. With respect to the provisions of this Ordinance that are the responsibility of the Building Official, that Official shall use the applicable administration and enforcement provisions of the Uniform Building Code, as adopted by the City in Title 21 of the Kirkland Municipal Code, to enforce and administer the provisions of this Ordinance.
2. The Director of the Department of Community Development. With respect to the provisions of this Ordinance that are the responsibility of the Director of the Department of Community Development, that Official shall use the applicable provisions of the Subdivision Ordinance, Ordinance 2178 as amended, to administer and enforce the provisions of this Ordinance.

Section 5: Compliance Required: No development, new construction or substantial improvement may be undertaken without first obtaining a permit from the Building Official. The Building Official shall not issue any permit within an area of special flood hazard that does not conform to this ordinance.

Section 6: Conflict with Existing Laws, Ordinances, and Codes: This ordinance takes precedence over any less restrictive conflicting law, ordinance or code of the City. Laws, Ordinances, and Codes of the City that do not conflict with this Ordinance or impose a more rigorous standard on affected properties are not affected by this Ordinance.

Section 7: Duties and Responsibilities of City Officials:

1. General - except as noted in paragraph 2 of this Section, the Building Official shall be responsible for the administration and enforcement of the National Flood Insurance Program in Kirkland. In addition, the Building Official has the following responsibilities.

a. Reviewing all applications for building permits to determine that the requirements of this ordinance are satisfied and to determine that all necessary permits have been obtained from federal, state, or local governmental agencies.

b. Obtaining, verifying and maintaining the following information for public inspection and copying:

(1) The actual elevation (in relation to mean sea level) of the lowest floor or storage area (including basement) of all new and substantially improved structures.

c. Notifying adjacent communities and the State Departments of Ecology and Fisheries prior to any alteration or relocation of Forbes Creek, Yarrow Creek, or Cochran Creek, and submitting evidence of this notification to the Federal Insurance Administration.

d. Requiring that if Forbes Creek, Cochran Creek, or Yarrow Creek are altered or relocated, that it is maintained so that its flood carrying capacity is not diminished.

e. Making interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard. The Building Official shall review and reasonably utilize any base flood elevation data available from a Federal, State, or other source in making his/her interpretation. Any person contesting the location of the boundary as interpreted by the Building Official must do so by filing a written appeal to the Board of Appeals, as established under the Uniform Building Code as adopted by the City in Title 21 of the Kirkland Municipal Code, within 30 days of the date of the interpretation.

2. Responsibility for Subdivisions: The Director of the Department of Community Development is responsible for the enforcement of this Ordinance regarding proposed subdivisions.

Section 8: General Regulations: The regulations of this section apply to all areas of special flood hazard in the City of Kirkland:

1. Anchoring

a. All new construction and substantial improvements must be anchored to prevent flotation, collapse and lateral movement of the structure.

b. All mobile homes must be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specifically--

(1) over-the-top ties must be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, and with mobile homes less than 50 feet long requiring one additional tie per side; and

(2) frame ties must be provided at each corner of the home with five additional ties per side at intermediate points, and with mobile homes less than 50 feet long requiring four additional ties per side; and

(3) all components of the anchoring system must be capable of carrying a force of 4,800 pounds; and

(4) any additions to the mobile home must be similarly anchored.

c. An alternative method of anchoring involving a system designed to withstand a wind force of 20 pounds per square foot or greater may be permitted. A certification prepared by a licensed structural engineer must be provided to the Building Official that this standard has been met.

2. Construction Materials and Methods

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

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

3. Utilities

a. All new and replacement water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems.

b. New and replacement sanitary sewage systems must be designed to minimize or eliminate infiltration of flood waters into the systems and to minimize or eliminate discharge from the systems into flood waters.

c. On-site waste disposal systems are prohibited.

4. Subdivision Proposals

a. All subdivision proposals must be consistent with the need to minimize flood damage.

b. All subdivision proposals must have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

c. All subdivision proposals must have adequate drainage provided to reduce exposure to flood damage.

5. Residential Construction. All new residential structures and substantial improvements to existing residential structures must--

a. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

b. Be certified by a licensed structural engineer that the standards of this Ordinance are satisfied.

6. Mobile Homes. All new mobile homes must have

a. Adequate surface drainage and access for a hauler; and

b. If the mobile home is to be placed on pilings, it must - -

(i) Be on a lot large enough to permit steps, and

(ii) Be on piling foundations placed in stable soil and no more than ten feet apart; and

(iii) Provide reinforcement for pilings no more than six feet above the ground level.

7. Elevation Data - Where elevation data is not available, each applicant for a Building Permit is required to assure that proposed construction will be reasonably safe from flooding. This may be done with historical data, high water marks, photographs of past flooding, or any other similar means.

Section 9: Regulations Applicable to Specific Zones. The regulations of this section apply to the flood hazard zones as designated on the Flood Insurance Rate Map.

1. A Zones, and AH Zones. The following regulations apply to all new construction or substantial improvements to existing structures in A Zones and AH Zones:

a. Residential structures must have the lowest floor (including basements) elevated to or above the water surface elevation of the base flood.

b. Non-residential structures must have the lowest floor (including basements) elevated to or above the water surface elevation of the base flood or be floodproofed to or above that elevation. If floodproofing is used to comply with this provision, the applicant must submit a statement prepared by a licensed structural engineer certifying that the floodproofing methods used are adequate to withstand the forces associated with the base flood.

c. In A Zones, the applicant must submit information to enable the City to determine the water surface elevation of the base flood for that zone.

2. A1 Zones. The following regulations apply to all new construction or substantial improvements to existing structures in A1 zones:

a. Within a floodway, development of any kind, except for shoreline protective structures, bridges, roads and trails, is not permitted. The aforementioned exceptions will be permitted only if they would not result in any increase in the water surface elevation of the base flood.

b. Within a floodway fringe, residential structures must have the lowest floor (including basements) elevated to or above the water surface elevation of the base flood.

c. Within a floodway fringe, non-residential structures must have the lowest floor (including basements) elevated to or above the water surface elevation of the base flood or be floodproofed to or above that elevation.

3. A0 Zones: The following regulations apply to new construction and substantial improvements to existing structures in A0 zones:

a. Residential structures must have the lowest floor (including basements) elevated at least one foot above the nearest street.

b. Non-residential structures must have the lowest floor (including basements) elevated at least one foot above the crown of the nearest street, or be flood-proofed to at least one foot above the elevation of the crown of the nearest street. If floodproofing is used to comply with this provision, the applicant must submit a statement prepared by a licensed structural engineer certifying that the floodproofing methods used are adequate to withstand the forces associated with the base flood.

Section 10: Exceptions.

1. General. The Board of Appeals, as established in the Uniform Building Code as adopted by the City in Title 21 of the Kirkland Municipal Code, is authorized to hear and decide upon requests for special exceptions to the provisions of this Ordinance.

2. Procedures. The Board of Appeals shall follow the procedures established in the Uniform Building Code to hear and decide upon requests for exceptions to the provisions of this Ordinance.

3. Decisional Criteria. The Board of Appeals may only grant an exception to the provisions of this Ordinance if it finds that--

a. The applicant has shown that it would present an unreasonable and unusual hardship to strictly enforce the provisions of this Ordinance on the subject property; and

b. The granting of the exception will not result in increased flood heights, additional threat to public safety, increased public expense, or conflict with any other, law, regulation, or ordinance that applies to the subject property; and

c. That the circumstances giving rise to the requested exception are reasonably unique to the subject property.

4. Factors to be Considered. In deciding upon a request for an exception using the criteria of paragraph 3 of this Section, the Board of Appeals shall consider the following factors:

a. The danger to other properties from the proposed exception.

b. The susceptibility of the proposed development to flood damage as a result of the exception.

c. The necessity of the proposed development locating in an area of flood hazards.

d. The compatibility of the proposed development with existing and planned uses in the area.

e. The expected height, velocity, duration, rate of rise, and sediment transport of the flood waters expected on the subject property.

5. Conditions and Restrictions. The Board of Appeals may attach any conditions and restrictions to the granting of an exception that the Board determines are reasonably necessary to eliminate or minimize any adverse impacts of the exception.

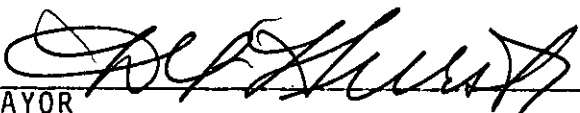
Section 11. Disclaimer of Liability. The degree of flood protection required by this Ordinance is reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Ordinance does not imply that the land outside the areas of special flood hazards or uses permitted within these areas will be free from flooding or flood damages. This Ordinance does not create liability on the part of the City of Kirkland, any officer or employee of the City, or the Federal Insurance Administration for any flood damage that results from reliance on this Ordinance or any administrative decision made under this Ordinance.

Section 12. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

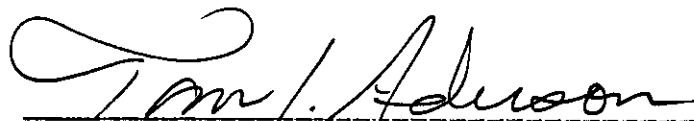
Section 13. This Ordinance shall be in force and take effect five (5) days from and after its passage by the City Council and publication as required by law.

PASSED BY MAJORITY VOTE OF THE KIRKLAND CITY COUNCIL IN REGULAR, OPEN MEETING this 18th day of May, 1981.

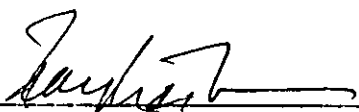
SIGNED IN AUTHENTICATION thereof this 18th day of May, 1981.


MAYOR

ATTEST:


Director of Administration and Finance
(ex officio City Clerk)

APPROVED AS TO FORM:


City Attorney

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