

CITY OF FIFE, WASHINGTON

ORDINANCE NO. 1956

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON AMENDING SECTIONS 15.40.020, 15.40.050, AND 15.40.260 OF THE FIFE MUNICIPAL CODE REGARDING FLOOD DAMAGE PROTECTION

WHEREAS, the Federal Emergency Management Agency (FEMA) and Pierce County Agencies continue to work collaboratively to address potential flooding in the event of a failure of the Puyallup River levee; and

WHEREAS, on December 19, 2014 FEMA provided the City of Fife with a third draft “Flood Insurance Rate Map (FIRM)” and “Flood Insurance Study (FIS)” that are based upon the best available science of more accurate “light detection and ranging” mapping known as “LiDAR” mapping; and

WHEREAS, on April 2015, the City of Fife hosted one of three regional public informational meetings to introduce the third round preliminary DRAFT FIRM & FIS, a new coastal flood hazards and levee seclusion depicting portions of a few properties within the City of Fife are newly impacted and a few properties are removed; and

WHEREAS, the “levee seclusion” approach represents a compromise that provides a new countywide FIRM to move forward with updated mapping while “secluding” from the update areas potentially to be affected following a future national levee accreditation and mapping policy work; and

WHEREAS, the FIRM map, dated March 7, 2017, containing FEMA’s the flood hazard determinations were published in the Federal Register and Tacoma News Tribune in June and July 2016 that initiated a final 90-day comment and appeal period; and

WHEREAS, no City of Fife property owner appeals were submitted to the City of Fife and based upon July 2015 City Council concurrence, the City of Fife did not file an appeal to FEMA; and

WHEREAS, FEMA did not receive any appeals from any property owner or Pierce County agencies and therefore notified Pierce County and the City of Fife on September 7, 2016 that they have concluded their Special Flood Hazard Areas work and issued the March 7, 2017 FIRM and FIS; and

WHEREAS FEMA requires Pierce County and all municipal agencies including the City of Fife to adopt floodplain management regulations that meet the FEMA standards prior to March 7, 2017; and

WHEREAS, FEMA reviewed the City of Fife Flood Damage Prevention regulations (FMC 15.40) and provided specific code amendments necessary to remain eligible in the National Flood Insurance Program; and

WHEREAS, the City Council finds that the public health, safety and welfare of City of Fife property owners would be served by adopting the new flood plain standards as a condition of continued eligibility in the National Flood Insurance Program; now, therefore,

**THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON
DO ORDAIN AS FOLLOWS:**

Section 1. Fife Municipal Code Section 15.40.020 is hereby amended to read as follows:

15.40.020 Definitions

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

A. "Appeal" means a request for a review of the building inspector's interpretation of any provision of this chapter or a request for a variance.

B. "Area of shallow flooding" means a designated AO or AH zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

C. "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

D. "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year, and may also be referred to as the "100-year flood."

E. "Basement" means any area of the building having its floor sub-grade (below ground level) on all sides.

F. "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, installations which produce, use, or store hazardous materials or hazardous waste.

G. "Designated floodway" means the regulatory floodway which has been delineated on the flood insurance rate map (FIRM) or the flood boundary/floodway map (FBFM) of the city's flood insurance study and is included in the city's flood damage prevention ordinance.

H. "Development" means any man-made 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, or storage of equipment or materials, located within the area of special flood hazard.

I. "Existing 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 for which the construction of facilities for servicing the lot on which the

manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before March 16, 1980.

J. "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

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

L. "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 risk premium zones applicable to the community.

M. "Flood insurance study" means the official report provided by the federal insurance administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

N. "Flood protection elevation" means one foot above the base flood elevation.

O. "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 foot.

P. "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 non-elevation design requirements of this chapter found in FMC 15.40.200(B) (provided there are adequate flood ventilation openings).

Q. "Manufactured home" means a structure that is transportable in one or more section, built on a permanent chassis, and designed to be used 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 travel trailers, park trailers and other similar vehicles.

R. "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.

S. "New construction" means structures for which the start of construction commenced on or after March 16, 1980.

T. "New manufactured home park or manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot (including, at a minimum, the installation of utilities, either final site grading or the

pouring of concrete pads, and the construction of streets) is completed on or after March 16, 1980.

U. "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or any agency of the state or local government unit however designated.

V. "Recreational vehicle" means a vehicle (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.

W. "Start of construction" includes substantial improvement, and means the date the building permit was issued; provided the actual start of construction, repair, reconstruction, placement or other improvement was within 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 slabs 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 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 as part of the main structure.

W. "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.

X. "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 fifty percent (50%) of the market value of the structure before the damage occurred.

Y. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds ~~50~~ fifty percent (50%) of the 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:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Z. "Variance" means a grant of relief of the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.
AA. "Water dependent" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

BB. "Wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands have one or more of the following three attributes:

1. At least periodically, the land supports predominately hydrophytes;
2. The substrate is predominately undrained hydric soil; and
3. The substrate is nonsoils and is saturated with water or covered by shallow water at some time during the growing season of each year.

Section 2. Fife Municipal Code Section 15.40.050 is hereby amended to read as follows:

15.40.050 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Pierce County and Incorporated Cities dated March 7, 2017 with accompanying flood insurance maps and any revisions thereto are adopted by reference and declared to be a part of this chapter. The flood insurance study is on file at City of Fife, 5411 23rd Street East, Fife, Washington.

Section 3. Fife Municipal Code Section 15.40.260 is hereby amended to read as follows:

A. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (1) through (11) in FMC 15.40.250(C) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historical Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section, upon a determination that the proposed reconstruction, rehabilitation or restoration will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

C. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard to afford relief.

E. Variances shall only be issued upon:

1. A showing of good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in this chapter or conflict with existing local laws or ordinances.

F. Variances as interpreted in the national flood insurance program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

G. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all of the other variance criteria except that set forth in subsection (A) of this section, and otherwise complies with FMC 15.40.140 and 15.40.150.

H. Any applicant to whom a variance is over the signature the community development director that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in subsection I of this section.


I. The City shall (i) maintain a record of all variance actions, including justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to the Federal Insurance Administrator.

Section 4. Each and every provision of this Ordinance shall be deemed severable. In the event that any portion of this Ordinance is determined by final order of a court of competent jurisdiction to be void or unenforceable, such determination shall not affect the validity of the remaining provisions thereof provided the intent of this Ordinance can still be furthered without the invalid provision.

Section 5. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication as required by law. A summary of this Ordinance may be published in lieu of the entire Ordinance, as authorized by State law.

Introduced the 14 day of ~~January~~^{February}, 2017.

Passed by the City Council on the 28 day of February, 2017.

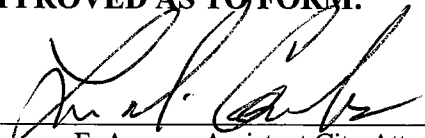


Subir Mukerjee, City Manager

ATTEST:

Angela Woods acting for
Carol Etgen, City Clerk

APPROVED AS TO FORM:


Gregory F. Amann, Assistant City Attorney

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