SEATTLE CITY COUNCIL

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Legislation Details (With Text)

File #:	CB 119832	**Version:**	1	**Name:**	CB 119832
Type:	Ordinance (Ord)			**Status:**	Passed
				In control:	City Clerk
On agenda:	7/20/2020				
Final Action:	7/24/2020			**Ord. No.**	Ord 126113

Title: AN ORDINANCE relating to floodplains; adopting interim regulations consistent with the Federal Emergency Management Agency (FEMA) regulations; adopting updated National Flood Insurance Rate Maps to allow individuals to continue to obtain flood insurance through FEMA's Flood Insurance Program; and amending Chapter 25.06 and Section 25.09.030 of the Seattle Municipal Code.

Sponsors: Dan Strauss

Indexes:

Attachments: 1. Ex 1 - The Flood Insurance Study for King County Washington, 2. Ex 2 - Flood Insurance Rate Maps, 3. Summary and Fiscal Note, 4. Seattle Department of Construction and Inspections Memo, 5. Signed Ordinance 126113, 6. Affidavit of Publication

Date	Ver.	Action By	Action	Result
7/24/2020	1	City Clerk	attested by City Clerk	
7/24/2020	1	Mayor	returned	
7/24/2020	1	Mayor	Signed	
7/21/2020	1	City Clerk	submitted for Mayor's signature	
7/20/2020	1	City Council	passed	Pass
7/13/2020	1	City Council	referred	
7/8/2020	1	Council President's Office	sent for review	
7/8/2020	1	City Clerk	sent for review	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to floodplains; adopting interim regulations consistent with the Federal Emergency Management Agency (FEMA) regulations; adopting updated National Flood Insurance Rate Maps to allow individuals to continue to obtain flood insurance through FEMA's Flood Insurance Program; and amending Chapter 25.06 and Section 25.09.030 of the Seattle Municipal Code.

WHEREAS, the City is required to update its floodplain development regulations to regulate development in special flood hazard areas in accordance with standards established by the National Flood Insurance Program and the Washington State Department of Ecology and areas identified as flood-prone in

subsection 25.09.012.B of the Seattle Municipal Code; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council finds and declares that:

A. On February 19, 2020, the Federal Emergency Management Agency (FEMA) informed the City that it must adopt updated regulations and updated Flood Insurance Rate Map (FIRM) panels and Flood Insurance Study (FIS) with an effective date prior to August 19, 2020 in order to maintain its standing in the National Flood Insurance Program (NFIP) program, which is a necessary precondition for residents to be eligible to obtain Flood Insurance.

B. The Seattle Department of Construction and Inspections (SDCI) worked closely with FEMA administrator in developing these proposed amendments.

C. SDCI was still working with the FEMA Administrator to obtain FEMA's review and concurrence of the proposed amendments as recently as July 6, 2020.

D. It is necessary to adopt these regulations on an interim basis to maintain the City's standing in FEMA's NFIP program, enabling citizens to continue to be eligible for flood insurance while preventing development incompatible with City goals related to development in the floodplains.

E. The Council has the authority to establish interim measures pursuant to the authority granted by Article 11, Section 11 of the Washington State Constitution, the Growth Management Act, RCW 36.70A.390, and *Matson v. Clark County*, 79 Wn. App. 641 (1995).

Section 2. Chapter 25.06 of the Seattle Municipal Code, last amended by Ordinance 125781, is amended as follows:

CHAPTER 25.06 FLOODPLAIN DEVELOPMENT

25.06.010 Title((~~,~~))

This ((~~chapter~~)) Chapter 25.06 shall be known and may be cited as the "((~~Seattle~~)) Floodplain Development ((~~Ordinance~~)) Regulations."

25.06.020 Purpose

The purpose of this Chapter 25.06 is to regulate development in ((~~areas of~~)) special flood hazard areas and flood-prone areas as defined in subsection 25.09.012.B in accordance with standards established by the National Flood Insurance Program and the Washington State Department of Ecology ((~~and areas identified as flood-prone in subsection 25.09.012.B~~)). This Chapter 25.06 is intended to promote the public health, safety, and welfare and is not intended to protect or benefit any individual or any class or group of persons specifically, or to create or form the basis for any liability on the part of the City or its officers, employees, or agents in connection with administration of this Chapter 25.06. This Chapter 25.06 shall be administered by affected City departments and interpreted to accomplish its stated purpose.

25.06.022 Warning and disclaimer of liability

The degree of flood protection required by the Floodplain Development Regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on occasion~~s~~. Flood heights may be increased by man-made or natural causes. This Chapter 25.06 does not imply that land outside the special flood hazard areas or outside flood-prone areas as defined in subsection 25.09.012.B or uses permitted within such areas will be free from flooding or flood damages. The Floodplain Development Regulations shall not create liability on the part of The City of Seattle, any officer, or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Chapter 25.06 or any administrative decision lawfully made under it.

25.06.030 Definitions

Unless specifically defined ((~~below~~)) in this Section 25.06.030, words or phrases used in this Chapter 25.06 shall be interpreted to give them the meaning they have in common usage. For purposes of this Chapter 25.06((~~, the following words or phrases are defined as set out below~~)):

"Alteration of watercourse" means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

((~~A.~~)) "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 (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.~~)) a designated zone AO on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. Also referred to as the sheet flow area.

((~~B.~~)) "Area of special flood hazard" or "special flood hazard area" means the land ((~~subject to a one (1) percent or greater chance of flooding in any given year. Designation on the Flood Insurance Rate Map (FIRM) for areas of special flood hazard always includes the letters A or V.~~)) in the floodplain within Seattle subject to a one percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as zone A, AO, AE,VE.

"ASCE 24" means the most recently published version of ASCE 24, Flood Resistant Design and Construction, published by the American Society of Civil Engineers.

"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 ((~~level~~)) elevation (BFE)" ((~~and~~)) or "base flood ((~~elevation~~)) level" ((~~both~~)) means the level or elevation above mean sea level, as calculated by reference to the vertical datum for Seattle under Section 1.20.020, ((~~of floodwaters in a particular area during flood having a one percent chance of occurring in any given year~~)) to which floodwater is anticipated to rise during the base flood.

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

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to

the elevated portion of the building or supporting foundation system.

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as zone V1-30, VE, or V.

"Community" means any state, or area or political subdivision thereof, or any Indian tribe or authorized tribal organization or Alaska Native village or authorized native organization, that has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

((~~D.~~)) "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, ((~~nonresidential~~)) and installations ((~~which~~)) that produce, use, or store hazardous materials or hazardous waste.

((~~E.~~)) "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 equipment or materials.

((~~F.~~)) "Director" means the Director of the Seattle Department of Construction and Inspections (SDCI). As used in this Chapter 25.06, the term includes authorized representatives of the Director of the Seattle Department of Construction and Inspections.

((~~G.~~)) "Flood" or "flooding" means:

1. ((~~a~~)) A general and temporary condition of partial or complete inundation of normally dry land areas from:

((~~1.~~)) a. The overflow of inland or tidal waters; and/or

((~~2.~~)) b. The unusual and rapid accumulation of runoff of surface waters from any source.

2. Mudslides (i.e. mudflows) that are proximately caused by flooding as defined in subsection G.1.b of this definition and area kin 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.

3. 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 subsection G.1.a of this definition.

"Flood elevation study" 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. Also known as a Flood Insurance Study (FIS).

((~~H.~~)) "Flood Insurance Rate Map (FIRM)" means the ((~~Flood Insurance Study for King County, Washington and incorporated areas, dated May 16, 1995, with accompanying Flood Insurance Rate Maps, that has delineated both the areas of special flood hazards and the risk premium zones applicable to The City of Seattle, or as otherwise required by the Department of Homeland Security~~)) official map of a community on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

((~~I. "Flood Insurance Study" means the official report, entitled "The Flood Insurance Study for King County, Washington and Incorporated Areas," dated May 16, 1995, provided by the Federal Insurance Administration, that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.~~))

"Flood proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Flood proofed structures are those that have the structural integrity and design to be impervious to floodwater below the base flood elevation.

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source. See "Flood or flooding".

"Floodplain administrator" means the official or officials designated by the Seattle Municipal Code to administer and enforce Seattle's floodplain development regulations.

"Floodplain variance" means a grant of relief by a community from the terms of a floodplain management regulation.

((~~J.~~)) "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 (1')~~)) a designated height. Also referred to as "Regulatory floodway".

"Functionally dependent use" means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the 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 in states with historic preservation programs that have been approved by the Secretary of Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a. By an approved state program as determined by the Secretary of the Interior, or

b. Directly by the Secretary of the Interior in states without approved programs.

((~~K.~~)) "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 applicable nonelevation design requirements of subsection ((~~A2 of Section~~)) 25.06.110.A.2.

((~~L.~~)) "Manufactured home" means a structure, transportable in one ((~~(1)~~)) or more sections, ((~~which~~)) that is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" ((~~also includes travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days~~)) does not include a "recreational vehicle".

((~~M.~~)) "Manufactured home park" or "manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two ((~~(2)~~)) or more manufactured home lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the vertical datum to which base flood elevations shown on a community's FIRM are referenced.

((~~N.~~)) "New construction" means structures for which the ((~~"~~))start of construction((~~"~~)) commenced on or after the effective date of ((~~the ordinance codified in this chapter.~~)) floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

((~~O.~~)) "Recreational vehicle" means a vehicle that is (a) built on a single chassis; (b) ((~~four hundred (400)~~)) 400 square feet or less in area when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light-duty truck; and (d) designed primarily not for use as a permanent

dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

((~~P.~~)) "Start of construction" means and includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within ((~~one hundred eighty (180)~~)) 180 days of 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 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 ((~~site~~)) land preparation, such as a clearing, grading, or filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation 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 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.

((~~Q.~~)) "Structure" means ((~~anything that is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.~~)) a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"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.

((~~R. 1.~~)) "Substantial improvement" means any ((~~repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:~~

~~a. Before the improvement or repair is started; or~~

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~~b. If the structure has been damaged and is being restored, before the damage occurred.~~

~~2. For the purpose of this definition, a "substantial improvement" commences when the first alteration on any wall, ceiling, floor or other structural part of the building is made, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:~~

~~a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or~~

~~b. Any alteration of a structure which is listed on the National Register of Historic Places or a State Inventory of Historic Places, which is designated as a landmark pursuant to SMC Chapter 25.12 or which is included in a landmark or historic district.~~)) reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not include either:

1. Any project for improvement of a structure to correct previously identified existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are 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.

25.06.040 Applicability

This Chapter 25.06 shall apply to all ((~~areas of~~)) special flood hazard((~~s~~))areas and flood-prone areas as defined in subsection 25.09.012.B as identified in Section 25.06.050 within the jurisdiction of The City of Seattle. ((~~This Chapter 25.06 shall also apply to flood-prone areas as defined in subsection 25.09.012.B that are not located within areas of)special flood hazards, as provided in this Chapter 25.06 by cross reference to subsection 25.09.012.B.~~)) Floodplain regulations include provisions in this Chapter 25.06 and provisions in Title 22 that address the risk of flooding.

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25.06.044 Abrogation and greater restrictions

This Chapter 25.06 is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter 25.06 and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

25.06.045 Interpretation

In the interpretation and application of this Chapter 25.06, all provisions shall be:

A. Considered as minimum requirements;

B. Liberally construed to provide the maximum flood protection; and

C. Deemed neither to limit nor repeal any other powers granted under state statutes.

25.06.050 Identification of ((~~areas of~~)) special flood hazard areas

A. The ((~~Areas of~~)) special flood hazard ((~~in The City of Seattle are~~)) areas as identified by the Federal Insurance Administrator((~~ion~~)) in a scientific and engineering report entitled "The Flood Insurance Study for King County, Washington and Incorporated Areas," dated ((~~May 16, 1995,~~)) August 19, 2020, and any revisions thereto, with ((~~an~~)) accompanying Flood Insurance Rate Maps (FIRMs), ((~~which~~)) dated August 19, 2020, and any revisions thereto ("the Maps"). The study and the Maps are included as Exhibit 1 and 2 to this ordinance, respectively, and are ((~~hereby~~)) adopted by reference and declared to be a part of this Chapter 25.06. These mapped areas are special flood hazard areas. The study and the Maps shall be maintained on file at the Seattle Department of Construction and Inspections and Seattle ((~~Public Utilities~~)) Department of Transportation.

B. If the FIRM boundaries are not clear, SDCI shall interpret the exact location of the boundaries of the special flood hazard areas based on actual field conditions. These determination of boundary locations can be formally interpreted through a FEMA Letter of Map Change consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR Section 60.6).

C. Special flood hazard areas also include flood-prone areas as defined in subsection 25.09.012.B.

25.06.060 Floodplain development approval required((~~.~~))

Construction or development shall not be undertaken within any ((~~area of~~)) special flood hazard area and flood-prone areas as defined in subsection 25.09.012.B as established in Section 25.06.050 without approval under this ((~~chapter~~)) Chapter 25.06. For development where no other permit or authorization from The City of Seattle or its departments or agencies is necessary to begin or to accomplish the work, the approval shall be documented by issuance of a floodplain development permit. For development where some other permit or authorization from The City of Seattle or its departments or agencies is required to begin or accomplish the work, including but not limited to development performed by City departments, the floodplain development approval shall be incorporated in such other permit or authorization.

25.06.070 Application for floodplain development approval or license

Application for a floodplain development approval, license, or permit ((~~for floodplain development approval~~)) shall be made on forms furnished by the ((~~Administrators~~)) floodplain administrator. The application ((~~shall~~)) may include, but ((~~shall~~)) is not ((~~be~~)) limited to, plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

A. Elevation prepared by a licensed surveyor or a registered professional ((~~civil~~)) engineer in relation to mean sea level, as calculated based on the vertical datum for Seattle under Section 1.20.020, of the lowest floor (including basement) of all structures recorded on a current elevation certificate with Section B completed by the floodplain administrator;

B. Elevation prepared by a licensed surveyor or a registered professional ((~~civil~~)) engineer in relation to mean sea level, as calculated based on the vertical datum for Seattle under Section 1.20.020, to which any structure has been or will be floodproofed;

C. ((~~Certification~~)) Where a structure is to be flood proofed, certification by a registered professional ((~~civil~~)) engineer or architect that the floodproofing methods for any nonresidential structure meet the

floodproofing criteria in Section 25.06.110; ((~~and~~))

D. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development ((~~.~~)) ; and

E. Where a structure is proposed in a V, V1-30, or VE zone, a V-zone designation design certificate;

F. Where development is proposed in a floodway, an engineering analysis indicating no rise of the Base Flood Elevation; and

G. Any other such information that may be reasonably required by the floodplain administrator in order to review the application.

25.06.080 Designation of ((~~Administrators.~~)) administrators

((~~Each City department which has responsibility for review and approval of any development or which performs any development in areas of special flood hazard in The City of Seattle is designated as an Administrator of this chapter and shall approve or deny floodplain development proposals only in accordance with the provisions of this chapter. Each Administrator shall be responsible for enforcing the provisions of this chapter as they apply to that Administrator's jurisdiction. The Director shall approve or deny applications for floodplain development licenses in accordance with the provisions of this chapter.~~))

The Director of the Department of Construction and Inspections or designee is appointed as the floodplain administrator charged to administer, implement, and enforce this Chapter 25.06 by granting or denying development permits, approvals or licenses in accordance with its provisions for all areas within Seattle except for areas in the City's public right-of-way. For all areas in the City's public right-of-way, the Director of Seattle Department of Transportation or designee is appointed to administer, implement, and enforce this Chapter 25.06 by granting or denying development and use permits in Title 15 in accordance with this Chapter 25.06.

25.06.090 Functions of the ((~~Administrators~~)) administrators

((~~Functions of the Administrators under this Chapter 25.06 shall include the following~~)) Duties of the Director of the Department of Construction and Inspections and the Director of Seattle Department of Transportation

shall include but not be limited to:

A. Reviewing development proposals to determine that:

1. ((~~the~~)) The requirements of this ((~~chapter~~)) Chapter 25.06 have been satisfied;

((~~B. Review development proposals to determine that all necessary~~)) 2. All required state and federal permits have been obtained ((~~from those federal, state or local governmental agencies from~~)) for which prior approval is required;

3. The site is reasonably safe from flooding; and

4. The proposed development is not located in the floodway. If located in the floodway, assure the encroachment provisions of Section 25.06.120 are met;

B. Notify the Federal Emergency Management Agency when annexations occur in the special flood hazard area;

C. When base flood elevation data has not been provided in A or V zones in accordance with Section 25.06.050, the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer Sections 25.06.110 and 25.06.120;

D. Where base flood elevation data is provided through the ((~~Flood Insurance Study~~)) FIS, FIRM, or required ((~~and obtained~~)) through subsection 25.06.090.C ((~~above~~)), obtain and maintain a record of the actual (as-built) elevation (in relation to mean sea level as calculated based on the vertical datum for Seattle under Section 1.20.020) of the lowest floor, including basement, of all new or substantially improved structures, and indicate whether or not the structure contains a basement;

E. Documentation of the elevation of the bottom of the lowest horizontal structural member in VE zones;

((~~E.~~)) F. For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in subsection 25.06.100.D.4:

1. ((~~Verify and~~)) Obtain and maintain a record of the ((~~actual~~)) elevation (in relation to mean sea level ((~~as calculated based on the National Geodetic Vertical Datum),~~)) to which the structure was flood proofed; and

2. Maintain the floodproofing certifications required in subsection ((~~C of Section~~)) 25.06.070.C;

((~~F.~~)) G. Maintain for public inspection all records pertaining to the provisions of this ((~~chapter~~)) Chapter 25.06, including all floodplain variance actions with justification for their issuance;

H. Obtain and maintain a record of improvement and damage calculations;

((~~G.~~)) I. Whenever a watercourse is to be altered or relocated:

1. Notify ((~~affected~~)) adjacent communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration through appropriate notification and means; and

((~~H.~~)) 2. Require that ((~~maintenance is provided within the altered or relocated portion of such watercourse so that~~)) the flood-carrying capacity ((~~is not diminished;~~)) of the altered or relocated portion of the watercourse is maintained.

25.06.100 General standards

In all ((~~areas of~~)) special flood hazard((~~s~~)) areas and ((~~in all other~~)) flood-prone areas defined in subsection 25.09.012.B, the following standards are required:

A. Anchoring

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

2. All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement of the structure 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.

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, air-conditioning equipment, and other service facilities shall be designed and/or otherwise elevated or located, to prevent water from entering or accumulating within the components during conditions of flooding.

C. Utilities

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

2. Water wells shall be located outside the floodway.

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

((~~3.~~)) 4. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision and short plat proposals

1. All subdivision and short plat proposals shall be consistent with the need to minimize flood damage.

2. All subdivision and short plat proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems, located and constructed to minimize flood damage.

3. All subdivision and short plat proposals shall have adequate drainage to ((~~minimize~~)) reduce exposure to flood damage.

4. ((~~If base flood elevation data has not been provided or is not available from another~~

~~authoritative source, the applicant shall provide such data for subdivision proposals and other proposed developments that contain at least 50 lots or five acres, whichever is less.~~)) Where a subdivision or a short plat proposal or other proposed development contains greater than 50 lots or greater than 5 acres, base flood elevation data shall be included as part of the application.

E. ((~~If~~)) Where elevation data is not available, ((~~either through~~)) whether from the ((~~most current map provided by the Federal Emergency Management Agency (FEMA) for administration of the National Flood Insurance Program~~)) FIS, the FIRM, or ((~~from~~)) another authoritative source as listed in subsection 25.06.090.G, applications for floodplain development shall be reviewed to assure that proposed construction shall be made reasonably safe from flooding. The evaluation of reasonableness shall include consideration of historical data, high water marks, photographs of past flooding, and similar information if available.

25.06.110 Standards involving base flood elevations

((~~If~~)) In all special flood hazard areas and flood-prone areas as defined in subsection 25.09.012.B, where base flood elevation data has been provided under Section 25.06.050 or subsection 25.06.090.C, the standards of subsections 25.06.110.A through 25.06.110.((~~E~~))H apply ((~~to areas of special flood hazards and to flood-prone areas defined in subsection 25.09.012.B~~)).

A. Residential construction

1. In AE zones or other A zoned areas where the BFE has been determined or can be reasonably obtained, ((~~N~~))new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to 2 feet or more above base flood elevation. Mechanical equipment and utilities shall be waterproof or elevated at least 2 feet above the BFE.

2. New construction and substantial improvement of any residential structure in an AO zone shall meet the requirements in Title 22 under Section 25.06.040.

3. New construction and substantial improvement of any residential structure in an unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from

flooding, but in all cases the lowest floor shall be at least two feet above the highest adjacent grade.

4. New construction and substantial improvement of any residential structure in a VE zone shall meet the requirements in Title 22 under Section 25.06.040.

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

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

b. The bottom of all openings shall be no higher than 1 foot above grade; and

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

d. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters.

B. ((~~Non-residential and live-work unit construction.~~)) New construction and substantial improvement of any commercial, industrial, or other non-residential structure((~~, including a structure with one or more live-work units, shall either have the lowest floor, including basement, elevated to 2 feet or more above the level of the base flood elevation or, together with attendant utility and sanitary facilities,~~)) shall ((~~:~~)) meet the requirements of subsection 25.06.110.B.1 or 25.06.110.B.2.

((~~1. Be floodproofed so that below 2 feet above the base flood level 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 civil engineer that the design and methods of~~

~~construction are in accordance with accepted standards of practice for meeting provisions of this subsection 25.06.110.B based on the civil engineer's development or review of the structural design, specifications and plans.~~))

1.

a. In AE or other A zoned areas where the BFE has been determined or can be reasonably obtained, new construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated one foot or more above the BFE, or elevated as required by ASCE 24, whichever is greater. Mechanical equipment and utilities shall be waterproofed or elevated at least 1 foot above the BFE, or as required by ASCE 24, whichever is greater.

b. If located in an AO zone, the structure shall meet the requirements in Title 22 under Section 25.06.040.

c. If located in an unnumbered A zone for which a BFE is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least 2 feet above the highest adjacent grade.

d. If located in a VE zone, the structure shall meet the requirements in Title 22 under Section 25.06.040.

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

i. Have a minimum of two openings with a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding;

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

iii. Openings may be equipped with screens, louvers, valves, or other coverings or

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devices; or a registered engineer or architect may design and certify engineered openings, provided that they permit the automatic entry and exit of floodwater; and

iv. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters.

2. If the requirements of subsection 25.06.110.B.1 are not met, then new construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall meet all of the following requirements:

a. Be dry floodproofed so that below 1 foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry flood proofed to the elevation required by ASCE 24, whichever is greater;

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

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection 25.06.110.B.2 based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in subsection 25.06.070.C.

d. Non-residential structures ((~~or structures with one or more live-work units~~)) that are elevated, not floodproofed, shall meet the same standards for space below the lowest floor as set out in subsection 25.06.110.A.((~~2 above~~))5.

C. Critical facilities. Construction of new critical facilities shall be located outside the limits of the ((~~areas of~~)) special flood hazard area and outside the limits of all other flood-prone areas as defined in Chapter 25.09 where possible. Construction of new critical facilities shall be permissible within ((~~areas of~~)) special flood hazard area and all other flood-prone areas as defined in Chapter 25.09 if no feasible alternative site is available. Critical facilities constructed within ((~~areas of~~)) special flood hazard area and all other flood-prone

areas as defined in Chapter 25.09 shall have the lowest floor elevated to 3 feet above the level of the base flood elevation at the site. Floodproofing and sealing measures shall be taken so that toxic substances will not be displaced by or released into floodwaters. Access routes to all critical facilities shall be elevated to or above the level of the base flood elevation to the extent possible.

D. Manufactured homes. All manufactured homes ((~~within Zones A1-30, AH, and AE on the FIRM or within all other flood-prone areas as defined in Chapter 25.09~~)) to be placed or substantially improved on sites shall be elevated on a permanent foundation ((~~so~~)) such that the lowest floor of the manufactured home is elevated 2 feet or more above the base flood elevation and shall be securely anchored to an adequately anchored foundation system ((~~in accordance with the provisions of subsection 25.06.100.A~~)) to resist flotation, collapse, and lateral movement.

E. Recreational vehicles. Recreational vehicles placed on sites within ((~~areas of~~)) special flood hazard areas or flood-prone areas as defined in subsection 25.09.012.B shall ((~~be~~)):

1. ((~~On~~)) Be on the site for fewer than 180 consecutive days; or

2. ((~~Fully~~)) Be fully licensed and ready for highway use, on their wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and be without permanently attached additions; or

3. Meet the requirements for manufactured homes specified in subsection 25.06.110.D((~~, above~~)).

F. Enclosed area below the lowest floor. If buildings or manufactured homes are constructed or substantially improved with fully enclosed areas below the lowest floor, the areas shall be used solely for parking of vehicles, building access, or storage.

G. If a project will alter the BFE or boundaries of the special flood hazard area or the flood-prone area as defined in subsection 25.09.012.B, then the project proponent shall provide engineering documentation and analysis regarding the proposed change and:

1. If the change to the BFE or boundaries of the special flood hazard area would normally require a Letter of Map Change, then the project proponent shall initiate, and receive approval of, a Conditional Letter of Map Revision (CLOMR) prior to approval of the development permit. The project shall be constructed in a manner consistent with the approved CLOMR.

2. If a CLOMR application is made, then the project proponent shall also submit the full CLOMR documentation package to the floodplain administrator to be attached to the floodplain development permit, including all required property owner notifications.

H. Livestock sanctuary areas. Elevated areas for the for the purpose of creating a flood sanctuary for livestock are allowed on farm units where livestock is allowed. Livestock flood sanctuaries shall be sized appropriately for the expected number of livestock and be elevated at least 1 foot above BFE to protect livestock. Proposals for livestock flood sanctuaries shall meet all procedural and substantive requirements of this Chapter 25.06.

25.06.120 Standards for floodways((~~.~~))

((~~Areas~~)) Located within special flood hazard areas established in Section 25.06.050 are areas designated as floodways ((~~are areas of special flood hazard established in Section 25.06.050. The following provisions apply to development in designated floodways~~)) . Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

A. Encroachments, including fill, new construction, substantial improvements, and other development, are prohibited unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will 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:

((~~(1) repairs~~)) 1. Repairs, reconstruction, or improvements to a structure ((~~which~~)) that do not increase the ground-floor area; and

((~~(2) repairs~~)) 2. Repairs, reconstruction, or improvements to a structure, the cost of which does not exceed ((~~fifty (~~))50((~~)~~)) percent of the market value of the structure either:

((~~(a) before~~)) a. Before the repair, reconstruction, or repair is started, or

((~~(b) if~~)) b. If the structure has been damaged, and is being restored, before the damage occurred. ((~~Work done on structures to comply with~~)) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety codes((~~s,~~)) specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions, or to structures identified as historic or landmark structures may be excluded from the ((~~fifty (~~))50((~~)~~)) percent requirement.

C. If the certification of subsection 25.06.120.A ((~~of this section above~~)) is obtained, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this ((~~chapter~~)) Chapter 25.06.

25.06.130 Standards for shallow flooding areas((~~.~~))

Areas designated as AO zones on the ((~~Flood Insurance Rate Maps~~)) FIRMs are areas of shallow flooding. The following provisions apply to such areas of shallow flooding:

A. New construction and substantial improvements of residential structures within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building ((~~one (1)~~)) 1 foot or more above the depth number specified on the FIRM, or if no depth number is specified, at least ((~~two (2)~~)) 2 feet.

B. New construction and substantial improvements of nonresidential structures ((~~with one (1) or more live-work units~~)) within AO zones shall either (1) have the lowest floor (including basement) elevated above the highest adjacent grade of the building site ((~~one (1)~~)) 1 foot or more above the depth number specified on

the FIRM, or if not depth number is specified, at least ((~~two (2)~~)) 2 feet; or (2) together with attendant utility and sanitary facilities, be completely floodproofed so that any space below the level specified in ((~~subsection~~)) (1) ((~~above~~)) is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If floodproofing is used, compliance with these standards must be certified by a registered professional engineer or architect.

C. Adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures shall be required.

25.06.135 AE and A1-30 zones with base flood elevations but no floodways

In AE and A1-30 FIRM designated zones with identified BFEs but no identified floodways, new construction, substantial improvements, or other development (including fill) is prohibited unless the applicant can demonstrate 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 1 foot at any point within the community.

25.06.136 Floodplain variances

The floodplain variance criteria set forth in this Section 25.06.136 are based on the general principle of zoning law that floodplain variances pertain to a piece of property and are not personal in nature. A floodplain variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this Chapter 25.06 would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners. It is the duty of the Director to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below the base flood elevation are so serious that floodplain variances from the flood elevation or from other requirements in this Chapter 25.06 are quite rare. The long-

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term goal of preventing and reducing flood loss and damage can only be met if floodplain variances are strictly limited. Therefore, the floodplain variance guidelines provided in this Chapter 25.06 are more detailed and contain multiple provisions that must be met before a floodplain variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a floodplain variance are more appropriate.

A. Requirements for floodplain variances

1. Floodplain variances shall only be issued:

a. Upon a determination that the granting of a floodplain 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, or conflict with existing local laws or ordinances;

b. For the repair, rehabilitation, or restoration of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the floodplain variance is the minimum necessary to preserve the historic character and design of the structure;

c. Upon a determination that the floodplain variance is the minimum necessary, considering the flood hazard, to afford relief;

d. Upon a showing of good and sufficient cause;

e. Upon a determination that failure to grant the floodplain variance would result in exceptional hardship to the applicant;

f. Upon a showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined as a "Functionally dependent use" under Section 25.06.030.

2. Floodplain variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.

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3. Generally, floodplain variances may be issued 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 BFE, provided the procedures of this Chapter 25.06 have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the floodplain variance increases.

B. Floodplain variance criteria. In considering floodplain variance applications, the Director shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Chapter 25.06, and:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

9. The safety of access to the property in time of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical, water system, and streets

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and bridges.

C. Additional requirements for the issuance of a floodplain variance

1. Any applicant to whom a floodplain variance is granted shall be given written notice over the signature of a community official that:

a. The issuance of a floodplain variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage, and

b. Such construction below the BFE increases risks to life and property.

2. The floodplain administrator shall maintain a record of all floodplain variance actions, including justification for their issuance.

3. The floodplain administrator shall condition the floodplain variance as needed to ensure that the requirements and criteria of this Chapter 25.06 are met.

4. Floodplain 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 circumstances, or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, floodplain variances from flood elevations should be quite rare.

25.06.140 Penalties for noncompliance((~~,~~))

No development shall occur in a((~~n area of~~)) special flood hazard area or a flood-prone area as defined in subsection 25.09.012.B in The City of Seattle without full compliance with the terms of this ((~~chapter~~)) Chapter 25.06 and other applicable regulations. Any person who violates this ((~~chapter~~)) Chapter 25.06 or fails to comply with any of its requirements shall be subject to a cumulative civil penalty in the amount of ((~~Fifty Dollars ($50.00)~~)) $500 per day for each day from the date the violation began until the date compliance with the requirements of this ((~~chapter~~)) Chapter 25.06 is achieved. Nothing ((~~herein~~)) contained in this Chapter

25.06 shall prevent The City of Seattle from taking such other lawful action as is necessary to prevent or remedy any violation.

25.06.150 Wetlands management((~~.~~))

To the maximum extent possible, development shall avoid the short-term and long-term adverse impacts associated with the destruction or modification of wetlands, especially development ((~~which~~)) that limits or disrupts the ability of wetland to alleviate flooding impacts. The ((~~Administrators~~)) floodplain administrators shall implement the following process:

A. Review proposals for development within areas of special flood hazard for their possible impacts on wetlands located within such areas;

B .Ensure that development activities in or around wetlands do not negatively affect public safety, health, and welfare by disrupting the wetland's ability to reduce flood and storm drainage; and

C. Request technical assistance from the Washington State Department of Ecology in identifying wetland areas.

Section 3. Section 25.09.030 of the Seattle Municipal Code, last amended by Ordinance 125292, is amended as follows:

25.09.030 Location of environmentally critical areas and buffers

A. Environmentally critical areas are defined in Section 25.09.012, and buffers are described in Sections 25.09.090 and 25.09.160. Environmentally critical areas are mapped whenever possible. These maps are advisory except as follows:

1. The maps adopted as designations for geologically hazardous areas in subsections 25.09.012.A.5, 25.09.012.A.6, and 25.09.012.A.7;

2. The FEMA maps showing areas of special flood hazard defined in subsection 25.06.030((~~.B~~));

3. Areas mapped or designated by the Washington Department of Fish and Wildlife (WDFW) in subsections 25.09.012.D.1 and 25.09.012.D.2; and

4. The delineations in the maps for peat settlement-prone areas in subsection 25.09.012.A.5 for parcels 50,000 square feet or less.

The Director may update or amend the maps by Director's Rule.

* * *

Section 4. The provisions of this ordinance are declared to be separate and severable. If any clause, sentence, paragraph, subdivision, section, subsection, or portion of this ordinance, or the application thereof to any hiring entity, gig worker, person, or circumstance, is held to be invalid, it shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 5. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2020, and signed by me in open session in authentication of its passage this _____ day of _____, 2020.

_____

President _____ of the City Council

Approved by me this _____ day of _____, 2020.

_____

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2020.

_____

Monica Martinez Simmons, City Clerk

(Seal)

Exhibit 1 - The Flood Insurance Study for King County Washington

Exhibit 2 - Flood Insurance Rate Maps