



# Kitsap County Department of Community Development

## Staff Report and Recommendation

### Update to Kitsap County Flood Hazard Area Standards Title 15 Kitsap County Code

<b>Report Date</b>	11/2/21
<b>Hearing Date</b>	11/16/21
<b>Amendment Type</b>	Kitsap County Development Code Update
<b>Description</b>	<p>The Department of Community Development recommends approval of the proposed amendments to Kitsap County Code (KCC) Title 15. The following list represent a summary of the proposed amendments related to the Flood Hazard Area Standards.</p> <ul style="list-style-type: none"><li>• Minor code revisions to ensure Kitsap County meets current minimum Federal Emergency Management Agency (FEMA) standards necessary to participate in the National Flood Insurance Program (NFIP).</li></ul>
<b>Geographic Area Affected</b>	Unincorporated Kitsap County
<b>SEPA</b>	The SEPA Checklist was submitted to Kitsap County for Determination on November 2, 2021.
<b>Department Recommendation</b>	Adopt as proposed

This report and recommendation are based on information available at the time of publication. If new relevant and material facts are discovered, this staff report may be revised, and the department recommendation may be modified.

#### 1. BACKGROUND

Kitsap County's flood hazard standards were originally adopted in 1980, and subsequently revised in 2003 and 2017. The standards are contained in Title 15 KCC, and are incorporated by reference into Titles 19 (Critical Areas) and 22 (Shoreline Master Program). The Title 15 purpose statement follows:

##### ***15.04.010 Purpose***

*It is the purpose of this title to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:*

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- (1) To protect human life and health;*
- (2) To minimize expenditure of public money and costly flood-control projects;*
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;*
- (4) To minimize prolonged business interruptions;*
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;*
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazards so as to minimize future flood blight areas;*
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and*
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.*

Flood hazard areas are identified by the “base flood” elevation, meaning a one percent chance of the identified flood elevation being equaled or exceeded in any given year. A base flood event is also referred to as the “100-year flood.”

In order to mitigate the effects of flooding on its citizens, Kitsap County participates in FEMA’s NFIP. In order to stay current under the NFIP, County flood standards and practices are periodically reviewed for compliance with current minimum FEMA standards.

In order to ensure standards are enacted at the local jurisdiction level, FEMA contracts with the Washington Department of Ecology (Ecology) to assist jurisdictions via the Community Assistance Visit (CAV) program.

Ecology’s most recent CAV occurred in April 2021, with the subsequent summary report issued in May 2021. The following report excerpt provides historical context regarding flood mapping and insurance in Kitsap County.

### ***Important Dates and Facts:***

<i>Entered Emergency Program</i>	<i>February 19, 1975</i>
<i>Converted to Regular Program</i>	<i>May 15, 1980</i>
<i>Initial Flood Hazard Boundary Map</i>	<i>February 14, 1975</i>
<i>Initial Flood Insurance Rate Map</i>	<i>May 15, 1980</i>
<i>Flood Insurance Study (FIS)</i>	<i>February 3, 2017</i>
<i>Flood Insurance Rate map (FIRM)</i>	<i>February 3, 2017</i>
<i>CRS</i>	<i>No</i>

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<i>NFIP Insurance Policies</i>	<i>494</i>
<i>Insurance in Force</i>	<i>\$147,629,100</i>
<i>Paid Losses</i>	<i>121</i>
<i>Substantial Damage Claims</i>	<i>5</i>
<i>Prior CAV</i>	<i>December, 2012</i>

### A. Authority

Washington State Department of Ecology (DOE) has the authority to require updates to local ordinance to be in compliance with the current FEMA Model Ordinance for Washington State (RCW 86.16.031). (Washington State Department of Ecology, 2020). The most recent Kitsap County Flood Hazard Ordinance update concluded with the adoption of the required and recommended changes by Ordinance 544-2017 on June 26, 2017.

### B. Proposed Amendment

The following attachments summarize and show detailed changes to KCC proposed by the Department of Community Development.

Attachment A1 – DOE CAV Summary Letter

Attachment A2 – T15 FHA Scoping Matrix (summary of changes)

Attachment A3 - Draft Amendments KCC Title 15 'Flood Hazard Areas'

Attachment A3 contains existing and draft language for the proposed code amendments. Language proposed for deletion is shown as a ~~strike through~~. Language proposed to be added is shown in red and underlined.

### C. Geographic Description

The proposal impacts all unincorporated areas of Kitsap County in designated Flood Hazard Areas as delineated by FEMA.

## 2. DEPARTMENT RECOMMENDATION

Having analyzed the proposed amendments the Department recommends:

- Adoption of the amendment:
  - as proposed above
  - as described in Alternative \_\_\_ below
  - with revisions described below
  - with conditions described below
- Deferral of the amendment to a future docket
- Denial of the amendment

### Rationale

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- Kitsap County is subject to the requirements of the Washington State Department of Ecology as per RCW 86.16.031, which is responsible for implementing FEMA and NFIP standards.
- RCW 36.32.120(7) provides that the county legislative authorities shall make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law.
- Kitsap County Code Chapter 21.08 sets forth a process and criteria for making amendments to development regulations. In making amendments, the County must consider whether the proposed amendments are consistent with and support Comprehensive Plan elements and or development regulations, and if not, what additional amendments to the Plan and/or development regulations will be required to maintain consistency; whether the proposed amendment to the Plan and/or regulation will more closely reflect the goals and policies of the Comprehensive Plan; whether the proposed amendment is consistent with the Kitsap County-wide Planning Policies; and whether the proposed amendment complies with the requirements of the GMA.
- The proposed code amendment promotes the public interest and welfare of the citizens of Kitsap County.

### Procedure:

- On May 27, 2021 Kitsap County Board of County Commissioners received a letter from DOE detailing the need for revision to sections of KCC Title 15 in order to be in compliance with the current FEMA Model Ordinance for Washington State. Subsequently, Kitsap County DCD received a copy of recommended and required updates from DOE.
- On September 15, 2021, Department staff briefed the Board of County Commissioners on proposed code amendments based on the requirements of DOE.
- On September 27, 2021, Department staff briefed the DCD Department Advisory Group on proposed code amendments.
- On October 18, 2021, the Planning Commission will be holding its work study session about the proposed amendments to the Flood Hazard Areas Ordinance. Department staff is providing a detailed briefing on all proposed code amendments and oriented the Planning Commission the strikeout and redline drafts to Title 15.
- On November 5, 2021, Department staff will submit a 60-day notice of intent to adopt amendment to Washington State Department of Commerce. This is an opportunity for the Planning Commission to discuss in depth the proposed draft amendments prior to the November 16, 2021 joint public hearing subsequent Deliberations and Findings of Fact meeting scheduled on December 7, 2021.
- On November 16, 2021, the County intends to hold a public hearing with the Planning Commission.

### 3. OTHER ALTERNATIVES CONSIDERED

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Not applicable. The proposed amendments are intended to align Kitsap County's Flood Hazard Program with FEMA and DOE requirements. This is a state mandated update and will allow Kitsap County to provide for residents to continue to participate in the NFIP.

### 4. COMPREHENSIVE PLAN CONSISTENCY

The proposed amendments are consistent with the goals and policies in the Kitsap County Comprehensive Plan, adopted June 30, 2016, with Plan revisions current through April 2020.

- Economic Development Goal 2. Support and develop new methods of insuring sustainable business development that create living wage jobs and economic opportunities consistent with local and regional plans.
  - Economic Development Policy 12. Continue to develop, revise and provide for periodic review of development standards, the zoning code and related ordinances to build a streamlined, understandable, consistent and predictable building, land use and development application procedure.
- Environment Goal 1. Formally treat natural environments, including forest lands, shorelines, freshwater systems, intact ecosystems, and other critical areas, as an essential asset that is planned for, managed, and invested in to meet the needs of current and future generations.
  - Environment Policy 7. Regularly review relevant codes, development regulations and implementing programs to assure that the natural environment is being managed as an essential asset. Adaptive management strategies will be part of this regular review.
- Environment Goal 3. Reduce the risk of damage to life, property and the natural environment through appropriate regulatory and incentive-based approaches in land use, transportation and development engineering programs.
  - Environment Policy 13. Use the best scientific information available to direct how functions and values of critical areas are preserved or enhanced.

### 5. FINDINGS

Amendments to the Kitsap County Code must be consistent with the criteria outlined in Kitsap County Code Chapter 21.08.070.B(1)-(5). Below are the findings related to the proposed amendments to Kitsap County Code Titles 15 (Flood Hazard Areas) They are shown in italics.

1. *Whether the proposed amendments are consistent with and supports other plan elements and or development regulations, and if not, what additional amendments to the plan and/or development regulations will be required to maintain consistency;*

**Staff Analysis:** The proposed amendments support Kitsap County Comprehensive Plan Elements such as Land Use, Environment, Economic Development, and Parks, Recreation and Open Space and are consistent with all others. No additional amendments to the Comprehensive Plan beyond the proposal are necessary to maintain this consistency.

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- Whether the proposed amendment to the plan and/or regulation will more closely reflect the goals and policies of the Comprehensive Plan and reflect the local circumstances of the county;*

**Staff Analysis:** The proposed amendments are consistent with the Comprehensive Plan elements (adopted June 30, 2016 and further amended in April 2020) and other adopted development regulations. They are supportive of local circumstances and uniqueness of flood hazards and provide a future benefit to Kitsap County as a whole.

- Whether the proposed amendment is consistent with the Kitsap Countywide Planning Policies; and*

**Staff Analysis:** The proposed amendments are consistent with the Countywide Planning Policies adopted May 11, 2015 and ratified by Kitsap County cities.

- Whether the proposed amendment complies with the requirements of GMA, state and local laws and other applicable inter-jurisdictional policies or agreements.*

**Staff Analysis:** The proposed amendments are consistent with the Growth Management Act, the Shoreline Management Act and all other state laws and Washington Administrative Code regarding the environment, capital facilities and other statutes.

- An explanation of why language should be added to the Comprehensive Plan or why existing language should be modified or deleted.*

**Staff Analysis:** The periodic review ensures the Flood Hazard Areas ordinance remains current with changes in state laws and rules and remains internally consistent with County plans and regulations. No proposed comprehensive plan amendments are proposed as they are consistent with the draft code amendments.

## 6. STATE ENVIRONMENTAL POLICY ACT (SEPA)

The Kitsap County SEPA official is reviewing a SEPA checklist prepared for this amendment (Attachment B2 – SEPA Checklist) and is expected to issue a SEPA threshold determination (Reserve Attachment B1 – SEPA Determination) in November 2021. The associated comment/appeal period will close 15 days after such determination. The SEPA official’s review found that this amendment is not related to, or dependent on, other amendments and therefore made an independent SEPA threshold determination regarding this amendment.

The SEPA threshold determination and environmental checklist will also be distributed to agencies with jurisdiction, the Department of Ecology, affected tribes, and each local agency or political subdivision whose public services would be changed due to the implementation of the proposal.

## 7. PUBLIC INVOLVEMENT AND OUTREACH

Kitsap County's public involvement and outreach for this amendment meets the requirements of the Kitsap County Code (KCC 21.08).

The joint Kitsap County Planning Commission comment period opened on October 27, 2021 and closes on November 29, 2021. The Kitsap County Planning Commission public hearing on November 16, 2021.

Specific Outreach and Public Meetings (Complete and Upcoming):

- |  |            |
|--|------------|
| • Board of County Commissioners Briefing | 09/15/2021 |
| • Department Advisory Group              | 09/28/2021 |
| • Planning Commission Workstudy          | 10/26/2021 |

Following the November 16, 2021 Public Hearing and close of joint comment period on November 29, 2021, the proposed schedule is as follows:

- December 6 : Planning Commission Deliberations and Findings of Fact
- January 10: Board of County Commissioners (BOCC) Study Session
- January 24: Board of County Commissioners Deliberation
- February 7: Board of County Commissioners Ordinance Adoption and Notice of Decision
- February 2021: Final Adoption documents transmitted to Department of Ecology and Notice of Adoption to Department of Commerce

To be included in the official record on the draft amendments through the Planning Commissioner review and recommendation process, written comments must be submitted to the Department of Community Development before 5:00 PM on Monday, November 29, 2021 using one of the following methods:

- Emailed to [awalston@co.kitsap.wa.us](mailto:awalston@co.kitsap.wa.us)
- Mailed to 614 Division Street - MS36, Port Orchard, WA 98366.
- Provided testimony at the November 16, 2021 public hearing.

Notifications and announcements regarding the comment period and public hearing with Kitsap County Planning Commission include the following:

- Legal notice published in the Kitsap Sun newspaper.
- Broadcast announcements via GovDelivery and NextDoor.

## 8. RECOMMENDATION

Based on the review and findings above, Kitsap County staff recommends approval of the proposed amendments.

## 9. STAFF CONTACT

## Staff Report: Kitsap County Code Title 15 Flood Hazard Areas Update

Report prepared by:

Report approved by:



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### ATTACHMENTS

- A. Code Amendments
  - 1. Attachment A1 – DOE CAV Summary Letter
  - 2. Attachment A2 – T15 FHA Scoping Matrix (summary of changes)
  - 3. Attachment A3 - Draft Amendments KCC Title 15 'Flood Hazard Areas'
  
- B. State Environmental Policy Act (SEPA)
  - 1. SEPA Checklist (Non-Project)

### CC:

Prosecutor's Office, MS-35:

Lisa Nickel, Deputy Prosecuting Attorney

DCD Staff:

Jeff Rimack, CBO, Department of Community Development Director

Angie Silva, Department of Community Development Assistant Director