

City of Kenmore



City of Kenmore - 18120 68th Avenue NE - P.O. Box 82607 - Kenmore, WA 98028
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City of Kenmore Planning Commission Meeting Agenda

Tuesday, January 15, 2019 @ 7:00 p.m.

**Kenmore City Hall
18120 68th Ave. NE, Kenmore, WA 98028**

If you have any questions or to confirm agenda items prior to the meeting, or if you require special accommodations, please call Bridgit Baker at 425-398-8900. You may also stop by City Hall at 18120 68th Avenue NE, Kenmore. Planning Commission agendas are also available on our website at www.kenmorewa.gov.

1. CALL TO ORDER

2. INTRODUCTION OF NEW COMMISSIONERS*

* Note: The updated Planning Commission photograph will be taken after the introduction of Commissioners.

3. ELECTION OF OFFICERS

4. CITIZEN COMMENTS

5. APPROVAL OF MINUTES

[December 4, 2018 Planning Commission Meeting Minutes](#)
[December 18, 2018 Planning Commission Meeting Minutes](#)

6. AGENDA ITEMS

[Critical Areas & Shoreline Master Program Amendments Memo](#)
[-Attachment 1: Follow Up Information](#)

7. ADJOURNMENT

8. UPCOMING MEETINGS:

January 29, 2019, 7:00 p.m.
February 5, 2019, 7:00 p.m.

**City of Kenmore
Planning Commission Meeting
December 4, 2018 @ 7:00 p.m.**

Planning Commission Members – In Attendance

Douglas Nugent, Chair
Mark Ohrenschall, Vice Chair
Carol Baker
Scott McDonald
Mike Mulcare
Dennis Olson
Mike Vanderlinde

Consultants & Staff

Lauri Anderson, Senior Planner
Bridgit Baker, Admin Assistant
Amy Summe, Shannon & Wilson

1. CALL TO ORDER

The meeting was called to order by Chair Nugent at 7:00 p.m.

2. CITIZEN COMMENTS

Dominic Andrilla, 18549 60th Ave Ne, Kenmore, WA 98028 commented after the discussion of the agenda items. He is curious about how the City decides to object to a geotechnical report and on what basis the City would render a report invalid. He feels that price, lead time, reputation and customer service are a few reasons why not to go with the City-recommended Geotech as discussed. He started with a Geotech in July and just received the Critical Areas Report last week which cost him approximately \$4,000. He doesn't feel confident that a Geotech or the City can review the reports without being onsite to make the right conclusions.

3. APPROVAL OF MINUTES

Commissioner Baker motioned to approve the November 6, 2018 minutes which was seconded by Commissioner Vanderlinde. The motion passed 5-0 with 1 abstention. Commissioner McDonald arrived after the vote was taken.

4. AGENDA ITEMS

Lauri Anderson began by highlighting the critical areas and shoreline master plan amendments. There were 3 sections which consists of the second set of the shoreline regulations, geologically hazardous areas and suggested changes to the groundwater susceptibility rules.

In response to the Planning Commissions comments and questions on Attachment 1, Lauri Anderson will verify whether any expansion of 522 would be covered under the Shoreline Regulations and would be an issue down the road. She will also research the wording on boat launches, pull out the specific section that addresses the ADA parking for the next meeting and she will correct the language that lists the Director instead of City Manager. The Planning Commission unanimously agreed on Attachment 1 subject to the comments addressed.

Attachment 2 relates to whether the City should treat moderate landslide areas differently than high landslide areas and the standards relating to each area. As agreed, since the City does not have all the Lidar information on the moderate landslide areas, the City would continue using the current map for moderate landslide hazard areas. A concern was raised by the Commissioners as to who and how to choose a Geotech Engineer if the City didn't agree with the Applicant's Geotech Report. Chair Nugent motioned to propose a tiebreaker option by which the City's Geotech and the applicant's Geotech select a third neutral party Geotech to resolve disputes. That Geotech will have the controlling decision on the Geotech Report. The motion was seconded by Vice Chair Ohrenschall. Commissioner McDonald moved to amend the motion stating that the applicant should not pay for the City's Geotech role in the tiebreaker role. The amended motion was seconded by Vice Chair Ohrenschall subject to the additional research. The motion passed 7-0 with no abstentions. Lauri Anderson will look to see if the City's review of a Geotech is covered in permit fees or if Development Services bills out review time. The Planning Commission gave approval of Attachment 2.

Attachment 3 relates to designated groundwater susceptibility and critical aquifer recharge areas. The Planning Commission approved Attachment 3.

Lauri Anderson proposed that the Planning Commission cancel their regular scheduled meeting on January 1, 2019, hold their regular meeting on January 15, 2019 and hold a special meeting on January 29, 2019 which was agreed upon by the Planning Commission.

Commissioner McDonald gave his resignation and will send an email to let the City Council know.

5. ADJOURNMENT

Chair Nugent adjourned the meeting at 8:18 p.m.

Planning Commission

Approved by Planning Commission on: _____

**City of Kenmore
Planning Commission Meeting
December 18, 2018 @ 7:00 p.m.**

Planning Commission Members – In Attendance

Douglas Nugent, Chair
Mark Ohrenschall, Vice Chair
Carol Baker
Mike Mulcare
Dennis Olson

Consultants & Staff

Lauri Anderson, Senior Planner
Bridgit Baker, Admin Assistant
Amy Summe, Shannon & Wilson

1. CALL TO ORDER

The meeting was called to order by Chair Nugent at 7:10 p.m.

2. CITIZEN COMMENTS

There were no comments rendered by citizens.

3. APPROVAL OF MINUTES

Commissioner Baker motioned to approve the November 20, 2018 minutes which was seconded by Vice Chair Ohrenschall. The motion passed 5-0 with no abstentions.

4. AGENDA ITEMS

Lauri Anderson presented the last set of Shoreline Regulations along with follow up information which answered some of the questions that the Planning Commission had. This set of Shoreline Regulations; establishes buffers, incentivizes restoration of vegetative buffers along the shorelines, does not require specific buffers for water oriented public parks (buffers only based on impacts), lists activities that are exempt for any type of review and lastly, lists specific requirements that are related to appeals. The Planning Commission agreed to adopt the staff's recommendations.

Attachment 3 compiled questions and issues arising from various sources which resulted in some revised recommendations. The two main topics of this attachment are fish suitability and liveaboards and their respective definitions. Fish suitability no longer looks to see if the fish are present in a stream but also if the fish habitat is present. Secondly, staff was unable to find much information on how other

jurisdictions handle liveaboards, only how they relate to marinas. However, in another section of the KMC it states that it is not possible to live on a boat on a dock for more than 3 days out of 5 days. Staff is proposing not to change to this requirement. The Planning Commission agreed with the staff's recommendations.

The new Planning Commissioners have been interviewed and selected – Suzanne Greathouse and Nathan Loutsis. The Planning Short Course will be held at Kenmore City Hall on March 19th from 6:15-9:15pm. Additionally, the Planning Commission recognized Chair Nugent for his work and service on the Planning Commission over the years.

5. ADJOURNMENT

Chair Nugent adjourned the meeting at 7:45 p.m.

Planning Commission

Approved by Planning Commission on: _____



18120 68TH AVENUE NE
KENMORE, WASHINGTON 98028

MEMO

TO: Planning Commission

FROM: Debbie Bent, Community Development Director *DB*
Lauri Anderson, Senior Planner *WAK*

DATE: January 9, 2019

SUBJECT: Critical Areas and Shoreline Master Program Amendments

The agenda for your January 15 discussion is to review follow-up information for the Shoreline Master Program, including revised recommendations, and to consider changes to the Shoreline Environment Designations Map. Attachment 1 is a compilation of questions, issues and revised recommendations resulting from previous discussions with the Commission, the Department of Ecology and others.

Staff recommends that you review these amendments and discuss concerns “by exception.” If you have questions prior to the meeting, please don’t hesitate to contact us.

At the meeting, staff also will present the recommended revised Shoreline Environment Designations Map and explain the rationale for the changes.

On January 29, we will present another set of questions, issues and recommendations—primarily from the Department of Ecology whose shoreline planners we met with on January 4. We also hope to have:

- the public agency and utility exception language (PAUE) to be included with the critical area regulations, and
- FEMA’s review comments on the frequently flooded areas regulations.

Attachments

Attachment 1: Follow-up information and revised recommendations

Following are some of the questions/concerns raised by Department of Ecology (Ecology), the Planning Commission, Kenmore staff members and the City's consultants, along with the staff responses and, if appropriate, staff's revised amendment recommendations.

SHORELINE SUB-ELEMENT

1. Consider a shoreline redesignation for the commercial area north of SR-522 along Swamp Creek

Staff response: Ecology and the City's consultants have flagged a concern about continuing to designate the area on the north side of SR-522 along the west side of Swamp Creek as "Urban Conservancy." Staff agrees that this area is zoned for and developed with more intensive commercial uses—more comparable to Downtown Waterfront than to Urban Conservancy. Staff recommends that a new designation be created, "Swamp Creek Commercial," and that the Shoreline Sub-element reflect this change as follows:

17.6. Swamp Creek Commercial Environment

Purpose: The purpose of the Swamp Creek Commercial Environment is to recognize existing and planned high-intensity commercial and high-density residential uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

Designation criteria: A Swamp Creek Commercial Environment designation should be assigned to shoreline areas adjacent to Swamp Creek if any of the following characteristics apply:

(A) The shoreline currently supports high-intensity commercial or high-density residential uses, and is designated in the Comprehensive Plan and zoned to remain high intensity, and

(B) The shoreline does not meet the requirement for Urban Conservancy Environment or Shoreline Residential Environment designations.

Management Policies

LU-17.6.1 In regulating uses in the "Swamp Creek Commercial" environment, water-oriented uses are a priority over non-water-oriented uses.

LU-17.6.2 Non-water-oriented uses should be allowed in the following circumstances:

A. As part of mixed use developments with water-dependent, water-related, or water-enjoyment uses;

B. When they provide substantial improvements to the degraded buffer along Swamp Creek;

C. When they do not conflict with or limit opportunities for water-oriented uses; or

D. Where there is no direct access to the shoreline.

LU-17.6.3 Development proposals should be designed or mitigated to assure no net loss of shoreline ecological functions.

LU-17.6.4 Full utilization of the Swamp Creek Commercial designated land should be achieved before further expansion of intensive development is allowed.

LU-17.6.5 Where applicable, new development should include environmental cleanup, with restoration of the shoreline, to comply with any relevant state and federal law.

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LU-17.6.6 Where feasible, visual and physical public access should be required consistent with the policies in Section 19, Public Access, Recreation and Views and Aesthetics, and SMP regulations.

LU-17.6.7 Development in the Swamp Creek Commercial designation should conform to sign control regulations, site plan requirements, landscaping standards, and commercial and multifamily design standards.

LU-17.6.8 Development should meet shoreline buffer standards and maintain natural vegetation.

2. Add Policy LU-16.1.1. back to Shoreline Sub-Element.

Staff response: Staff eliminated this policy as it seemed to conflict with Policy LU-16.1.2 which does not put public access as the top priority in the shoreline. However, this language is from the State guidance and Ecology has asked that the policy be retained as follows:

Policy LU-16.1.1 The public interest in the use and enjoyment of shorelines of statewide significance in the City of Kenmore shall be paramount.

3. Revise Policy LU-19.5.7 for clarification.

Staff response: Ecology has requested these revisions. Staff recommends the following to clarify that use of and access to the shoreline by the public should be allowed:

Policy LU-19.5.7 Environmentally critical areas in shoreline areas should be retained as open space. Public access and use should be allowed where there is no net loss of shoreline ecological processes and functions.

4. What is meant by “master plan development in Policy LU-23.9.11?”

Staff response: Ecology has requested this revision in a policy relating to Recreation. Staff recommends the following:

Policy LU-23.9.11 Where possible during park master plan development or redevelopment, consideration should be given to revegetating the shoreline, re-siting roads and parking areas further away from the shoreline, and removing stream channelization and shoreline protection devices.

SHORELINE REGULATIONS

5. Address changes to the environment description and use table for the new “Swamp Creek Commercial” shoreline designation.

Staff response: To follow-up with changes recommended under #1, above, staff recommends the following:

Chapter 16.23

SWAMP CREEK COMMERCIAL ENVIRONMENT

Sections:

16.23.010 Purpose.

16.23.020 Designation criteria.

16.23.010 Purpose.

The purpose of the Swamp Creek Commercial Environment is to recognize existing and planned high-intensity commercial and residential uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

16.23.020 Designation criteria.

A Swamp Creek Commercial Environment designation is to be assigned to shoreline areas adjacent to the west side of Swamp Creek if any of the following characteristics apply:

A. The shoreline currently supports high-intensity commercial or high-density residential uses, and is designated in the Comprehensive Plan and zoned to remain high intensity, and

B. The shoreline does not meet the requirement for Urban Conservancy Environment or Shoreline Residential Environment designations.

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16.50.030 Shoreline use table and conditions.

A. Shoreline Use Table.

Shoreline Use Table

KEY P – Permitted Use C – Shoreline Conditional Use X – Prohibited Use U – Same use allowances as in adjacent upland Environment	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
Adult entertainment business	P2	P2	X	X	X	X
Air transportation service	X	X	X	X	X	C14
Ambulatory surgery center	X	X	X	X	X	X
Animal kennel/shelter	X	X	X	X	X	X
Arts, entertainment, indoor	P2	P2	X	P2,18	X	X
Arts, entertainment, outdoor	P2	P2	X	P2	P6	X
Auction house	X	X	X	X	X	X
Automotive sales and service, marine	P2	P2	X	X	X	U3
Automotive sales and service, non-marine	X	X	X	X	X	X
Business service, intensive	X	X	X	X	X	X
Business service, standard	P2	P2	X	P2X	X	X
Cemetery, columbarium or mausoleum	X	X	X	X	X	X
College/university	P3	P3	P3	P3	X	U
Community residential facility	P2	P2	P	X	X	X
Construction and trade	X	X	X	X	X	X

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Shoreline Use Table

KEY P – Permitted Use C – Shoreline Conditional Use X – Prohibited Use U – Same use allowances as in adjacent upland Environment	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
Day-care	P2	P2	X	P2X	X	X
Eating and drinking place	P2	P2	X	P2,18	X	X
Educational service	P2	P2	P2	P2	X	X
Family child-care home	X	X	P	PX	C	X
Fire or police facility	P3	P3	P3	C3	X	U
Funeral home/crematory	X	X	X	X	X	X
Health care and social assistance	P2, 15	P2,15	X	P2,15	X	X
Hospital	X	X	X	X	X	X
Laboratory	P2	P2	X	X	X	X
Manufacturing, heavy	X	X	X	X	X	X
Manufacturing, light	P2	P2	X	C2X	X	X
Marijuana business	P2	P2	X	P2X	X	X
Marijuana cooperative	X	X	X	X	X	X
Mobile food service	P2	P2	X	P2	X	P3
Manufactured housing community	X	X	C16	X	X	X
Multiple-family dwelling. See also KMC Section 16.50.090.	P2	P2	P	P2	X	X
Office	P2	P2	X	P2	X	X

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Shoreline Use Table

KEY P – Permitted Use C – Shoreline Conditional Use X – Prohibited Use U – Same use allowances as in adjacent upland Environment	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
<i>Park.</i> See also KMC Section 16.50.070.	P4	P4	P5	P5	P6	P3
<i>Personal service</i>	P2	P2	X	P2	X	X
<i>Recreational facility, indoor</i>	P2	P2	X	P2	X	X
<i>Recreational facility, outdoor.</i> See also KMC Sections 16.50.050, 16.50.070, and 16.55.050.	P4,17	P4,17	P5,17	P5,17	P6	P3,4
<i>Regional land use, except for airport, ferry terminal, and highway and street, which are described below.</i> See also KMC Section 16.50.085.	C7	C7	X	X	X	C3
Airport	C14	X	X	X	X	C14
Ferry terminal	C	X	X	X	X	C
Highway and street	C10	C10	C10	C10,12	C10,12	C12
<i>Religious institution</i>	P2	P2	X	P2,X	X	X
<i>Resource land use, except for aquaculture, which is described below:</i>	X	X	X	X	X	X
<i>Aquaculture.</i> See also KMC Section 16.50.040.	X	X	X	X	X	C1
<i>Retail sales</i>	P2	P2	X	P2,18	X	X
<i>Retail sales, bulk</i>	X	P2	X	C2,X	X	X
<i>Secure facility</i>	X	X	X	X	X	X

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Shoreline Use Table

KEY P – Permitted Use C – Shoreline Conditional Use X – Prohibited Use U – Same use allowances as in adjacent upland Environment	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
<i>Single detached dwelling unit.</i> See also KMC 16.50.090.	X	X	P	P	C	P9
<i>Standalone parking.</i> See also KMC Section 16.50.087.	C13	X	X	X	X	X
<i>Supportive living facility</i>	P2	P2	P	P2X	X	X
<i>Temporary lodging</i>	P2	P2	X	X	X	X
<i>Transportation.</i> See also KMC Section 16.50.085.	C2	C2	X	X	X	X
<i>Utility facility.</i> See also KMC Section 16.50.080.	P11	P11	P11	P11	P11	P3,11
<i>Vehicle or equipment rental</i>	X	X	X	P3,18	X	P3,18
<i>Vehicle refueling station</i>	P2	P2	X	X	X	C3
<i>Warehousing</i>	X	X	X	X	X	X
<i>Wholesale trade</i>	P2,3*	P2	X	X	X	X

*Amended this use allowance as footnotes 2 and 3 conflict.

B. Shoreline Use Criteria (Footnotes to Shoreline Use Table in Subsection A of This Section). RELATED FOOTNOTES, NOT ALL, ARE SHOWN

2. *Water-dependent* and *water-related* uses shall be permitted. *Public access* improvements consistent with this chapter are required for all uses, unless precluded by public safety considerations. *Non-water-dependent* and *non-water-related* uses shall be permitted only if the use meets the standards of subsections (a), (b), (c) and (d) below:

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a. The development is:

(1) Part of a mixed use development that includes a *water-dependent use* and in which at least 50 percent of the land area within the shoreline jurisdiction on the project site is in a *water-dependent use* or *water-related use* (including uses accessory to a *water-dependent use* that are fully incidental and subordinate to the *water-dependent use*), dedicated *public access*, or substantial shoreline habitat enhancement consistent with KMC [16.60.010](#); or

(2) A new or expanding development in a commercial zone along the Swamp Creek shoreline north of Northeast Bothell Way, where the existing development does not conform with current stream buffer provisions of KMC Chapter 18.55 and where the proposed development would substantially increase the width and enhance the habitat quality of the buffer along Swamp Creek;

b. The *non-water-oriented uses* are located on land; and

c. The development provides a significant public benefit to help achieve any of the following shoreline element goals:

(1) Economic development for uses that are *water-dependent*;

(2) *Public access*;

(3) *Water-oriented* recreation;

(4) Multimodal, *water-dependent* transportation circulation;

(5) Conservation or *restoration of critical areas*, scenic vistas, or fish and wildlife habitat;
or

(6) Preservation of historic properties;

d. Existing *non-water-dependent uses* may be expanded, provided the expansion complies with all development standards and the project includes ecological enhancement consistent with KMC [16.60.010](#).

3. Only the *water-dependent* portion of the use shall be allowed in the *shoreline environment*.

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4. In the Downtown Waterfront **and Swamp Creek Commercial** Environments, *water-oriented* recreational uses including parks and *public access* trails and facilities may be allowed together with accessory recreation facilities that provide water enjoyment for substantial numbers of persons. All other recreational uses shall be prohibited.

7. Wastewater treatment facilities and municipal water production uses, except for in-water uses, shall be allowed only on Lake Washington *shorelines* and are prohibited on *shorelines* of the Sammamish River and Swamp Creek.

10. New highway and street construction is allowed only if:

- a. There is no *feasible* alternate location;
- b. Pedestrian, bicycle and public transport needs are addressed; and
- c. When located in the Natural Environment, the use is low-intensity transportation infrastructure.

11. Utility facilities may be located within the shoreline jurisdiction if there is no *feasible* alternate location, the alternative would result in unreasonable and disproportionate cost, or the facility is necessary to serve adjacent shoreline uses. In no case are propane/compressed natural gas/liquefied natural gas storage tanks serving multiple lots or uses from which fuel is distributed directly to individual users permitted.

15. Veterinary clinics are prohibited in the *shoreline environment*.

17. *Marinas* are prohibited on *shorelines* of the Sammamish River and Swamp Creek.

18. Only when accessory to a park or recreational facility and related to water access for the public.

6. Address the new “Swamp Creek Commercial” shoreline designation in the shoreline modifications table and better describe “boat launches.”

Staff response: To follow-up with changes recommended under #1, above, staff recommends the following changes to the shoreline modifications table. Too, in response to a concern by Planning Commissioners, the description of “boat launch” has been revised and new standards have been added:

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16.55.030 Shoreline modifications table and conditions.

A. Shoreline Modifications Table.

Shoreline Modifications Table

KEY	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
P – Permitted Modification						
C – Shoreline Conditional Use Required						
X – Prohibited Modification						
U – Same modification allowances as in adjacent upland Environment						
NA – Not applicable						
Shoreline modifications are allowed only if the underlying zoning allows the modification						
Shoreline stabilization. See also KMC Section 16.55.040.						
Shoreline stabilization, not including flood protection facilities	P1	P1	P1	C1	C1	C1
Repair or maintenance of shoreline stabilization facilities	P2	P2	P2	P2	P2	P2
Flood protection facilities	P3	P3	P3	P3	C3	P3
Water access structures⁴ See also KMC Section 16.55.050.						
Boat launch – Residential (including community), nonmotorized Soft-surface	XP	X	PX	C	X	U
Boat launch – Residential (including community), Hard-surface motorized	XC	X	CX	X	X	UX
Boat launch, Public or Commercial, Hard-surface nonmotorized	P	X	X	P	CX	U
Boat launch, Public, motorized	P		X	P	X	U
Boat launch, Commercial, motorized	P		X	X	X	U
Dock or pier – Residential (including community)	P	X	P	C	X	U
Dock or pier – Public	P	X	P	P	C	U
Dock or pier – Commercial	P	X	X	X	X	U
Watercraft lifts (including jet ski lifts)	P	X	P	X	X	U
Other floats and moorage buoys	P	X	P	P	X	U

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Shoreline Modifications Table

KEY	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
P – Permitted Modification						
C – Shoreline Conditional Use Required						
X – Prohibited Modification						
U – Same modification allowances as in adjacent upland Environment						
NA – Not applicable						
<i>Shoreline modifications</i> are allowed only if the underlying zoning allows the modification						
Repair or replacement of existing water access structures	P	P	P	P	P	P
Fill. See also KMC Section 16.55.060.						
Upland outside of <i>floodplain</i>	P	P	P	C	C	NA
Upland inside of <i>floodplain</i>	P	C	C	C	C	NA
In-water, <i>restoration</i>	NA	P	P	P	P	P
In-water, non- <i>restoration</i>	NA	C	C	C	C	C
Breakwaters, jetties, groins, and weirs						
<i>Breakwaters, jetties, groins and weirs</i>	C5	C5	C5	C5	C5	C5
Grading and dredging. See also KMC Section 16.55.060.						
<i>Dredging</i>	NA	P	P	P	P	P
Grading	P	P	P	P7	C	NA
In-water disposal	NA	X	X	X	X	P
Upland disposal outside of <i>floodplain</i> or <i>channel migration zone</i>	P	P	P	P	C	NA
Upland disposal inside of <i>floodplain</i> or <i>channel migration zone</i>	C	C	C	C	C	NA
Shoreline habitat and natural systems enhancement projects						
Habitat and natural systems enhancement projects	P6	P6	P6	P6	P6	P6

B. Development Conditions (Footnotes for the Shoreline Modifications Table in Subsection A of this Section). RELATED FOOTNOTES, NOT ALL, ARE SHOWN

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1. *Shoreline stabilization*, including *bulkheads*, shall be permitted only when it has been demonstrated that stabilization is necessary to protect existing legally established primary structures, public improvements, proposed or existing *water-dependent* development, or projects for the *restoration of ecological functions* or hazardous substance remediation, and must meet the standards in KMC [16.55.040](#). In the Aquatic Environment, stabilization requires conditional use approval, unless located adjacent to a Downtown Waterfront or Shoreline Residential Environment.
2. An existing *shoreline stabilization* structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves. Normal maintenance and repair is allowed; provided, that all work is conducted in a manner that does not cause a net loss of *ecological functions*.
3. Flood protection facilities must be consistent with the standards in Chapter [18.55](#) KMC and the Integrated Stream Protection Guidelines (Washington Departments of Fish and Wildlife, Ecology, and Transportation, 2003).
4. Water access structures shall meet the standards in KMC [16.55.050](#) and are allowed only for:
 - a. *Water-dependent uses*;
 - b. *Public access*;
 - c. Single detached residential units;
 - d. Joint use facilities for multiple-family dwelling unit developments; or
 - e. *Water-related* or *water-enjoyment uses* only as part of a mixed use development and only if auxiliary to and in support of a *water-dependent use*.

Water access structures are not allowed in Swamp Creek.

5. *Breakwaters*, jetties, *groins* and weirs are only allowed where necessary to support *water-dependent uses*, *public access*, approved *shoreline stabilization*, or other public uses, as determined by the *city manager*. *Groins* are only allowed as part of a *restoration* project sponsored or cosponsored by a public agency that has natural resource management as a primary function.
6. Shoreline habitat and natural systems enhancement projects may include *shoreline modifications* of vegetation, removal of nonnative or invasive plants, and *shoreline stabilization*, including the installation of large woody debris, *dredging* and filling, provided the primary purpose is clearly

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restoration of the natural character and *ecological functions* of the shoreline. Mitigation actions identified through biological assessments required by the NOAA Fisheries Service and applied to flood hazard mitigation projects may include *shoreline modifications* of vegetation, removal of nonnative or invasive plants, and *shoreline stabilization*, including the installation of large woody debris, *dredging* and filling.

16.55.050 Water access structures.

C. Any boat launch authorized by this chapter shall be subject to the following requirements:

1. Location Standards

- a. Boat launches shall be sited so that they do not significantly damage fish and wildlife habitats and shall not occur in areas with native emergent vegetation. Removal of native upland vegetation shall be minimized to the greatest extent *feasible*.
- b. Boat launches shall not be approved in cases when it can be reasonably foreseen that the development or use would require maintenance *dredging* during the life of the development or use.
- c. ~~Motorized~~ boat launches anticipated to be used by motorized boats shall be separated from existing designated swimming areas and other water access structures on adjacent properties by a minimum of 25 feet.
- d. ~~Motorized~~ Public and commercial boat launches shall be located only at sites with suitable transportation access. The *applicant* must demonstrate that the streets serving the boat launch can safely handle traffic generated by such a facility, and that parking for vehicles and attached trailers is sufficient.
- e. ~~Motorized~~ Public and commercial boat launches shall be located farther than 50 feet from the outlet of a stream, including piped streams, when feasible.

2. Size – The *applicant* shall demonstrate that the proposed size of the boat launch is the minimum width and length below the ordinary high water mark necessary to safely launch the intended craft.

3. Design Standards

- a. ~~Nonmotorized~~ Soft-surface boat launches shall be constructed of gravel, vegetation-stabilized earth, or other similar natural material. When only vegetation, and not the ground surface or lake and river substrates, is modified to allow for hand-launch of nonmotorized watercraft, that modification is not considered a boat launch subject to these regulations.

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b. ~~Motorized~~Hard-surface boat launch designs, in order of preference, are:

- (1) Open grid with minimum coverage of substrate.
- (2) Seasonal ramps that can be removed and stored upland.
- (3) Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in shoreline profile.

4. ~~Public or commercial~~ Boat launches shall provide trailer spaces, at least 10 feet by 40 feet, commensurate with projected demand.

7. Revise the definition of applicant to conform to definition in WAC 173-27-180(1).

Staff response: Ecology has requested this revision. WAC 173-27-180(1) states that, "the applicant should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent." Staff recommends the following:

16.10.038 Applicant.

"Applicant" means a person who files an application for a development proposal, permit or approval under this title and who is either the owner of the land on which that proposed activity would be located, ~~a contract purchaser, or the authorized agent of such a person or the primary proponent of the project.~~ A primary proponent shall have the permission of the landowner before proceeding with an application.

8. Amend 16.45.010.B.4 to state that chemicals should only be applied by a licensed applicator.

Staff response: Ecology requested this change. Staff recommends the following:

4. The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected. The use of chemicals to control invasive aquatic weeds ~~should~~shall be limited to herbicides, ~~provided, that the chemicals are applied by a licensed pesticide applicator and~~ approved for aquatic use.

9. Consider putting provisions for maintenance plans in the "Procedures" section of the regulations.

Staff response: As presently crafted, the opportunity for multi-year approval of maintenance plans is found in the individual sections addressing utilities, parks, transportation, etc. Staff agrees that it would make more sense to develop a general section on maintenance plans as follows:

16.75.045 Public Agency or Utility Maintenance Plans. To simplify the future review of maintenance activities that are or will be ongoing in association with new or existing public parks, utilities, streets,

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or other public agency or utility facilities, the *city manager* may approve a 5-year maintenance plan that establishes best management practices or protocols to assure no-net-loss of shoreline ecological functions.

The maintenance plan shall contain, as applicable:

1. A description of proposed maintenance activities, including the area of disturbance and type, methods and frequency of maintenance activities;
2. Best management practices for maintenance activities;
3. A description of in-stream or in-lake habitat protection measures;
4. A description of riparian and wetland protection measures;
5. A description of site-appropriate water use management activities, including using less water-dependent landscaping, maximizing the efficiency of the water application system, and reducing the area irrigated;
6. A description of stormwater management practices to treat stormwater runoff to reduce both water quantity and water quality impacts;
7. A description of erosion and sediment control practices that prevent off-site movement of sediment from stored soils and potential surface erosion areas;
8. A description of re-vegetation or restoration activities following maintenance; and
9. A description of chemical and nutrient use and containment practices that demonstrate minimization of overall inputs of these contaminants, restrict the type of inputs, and develop an acceptable method of application through a comprehensive management program, such as Integrated Pest Management (IPM).
10. Specific performance standards for subsections 3 through 9 above, as applicable, and corrective actions that will be implemented if the performance standard(s) is not met.
11. Demonstration that the proposed work qualifies for a shoreline exemption and that the work complies with the City of Kenmore Shoreline Master Program.

The individual sections previously describing these plans would be eliminated.

10. Why was the language about written findings for nexus and rough proportionality removed from the Public Access section?

Staff response: Staff had recommended deleting the following requirement under “Public Access:

~~C. Where public access is required, the director shall prepare written findings demonstrating that the conditions imposed are consistent with the principles of nexus and rough proportionality, the Act and all relevant constitutional and other legal limits on regulation of private property.~~

In response to Ecology's concern, staff recommends the following:

C. Where public access is required, the city manager shall first consider the principles of nexus and rough proportionality, the Act and all relevant constitutional and other legal limits on regulation of private property.

Legal staff, rather than permit review staff, would more appropriately prepare written findings of consistency with the principles of nexus and rough proportionality. This revised language acknowledges that private property rights should be protected, but does not delay processing of a shoreline permit while waiting for a legal analysis. That analysis and written findings could be prepared if a public access requirement was challenged.

11. Clarify that parking in the Natural Environment should only be allowed for water-dependent uses and only if there is no other feasible location.

Staff response: Ecology requested that the location of parking in the Natural Environment be clarified. Staff recommends the following amendments:

16.50.087 Parking

A. Parking is prohibited in the Natural Environment unless it supports a water-dependent use and complies with subsections B and C of this section.

B. In all shoreline environment designations, Parking should be located outside the shoreline jurisdiction; if infeasible to locate outside of the shoreline jurisdiction, such facilities shall be located as far from the shoreline as is feasible unless there are overriding needs for safe ADA (Americans with Disabilities Act) access.

C. Lighting from parking areas shall be screened from illuminating fish and wildlife habitat areas and their buffers; provided, that lighting necessary for safe operation of a permitted water-dependent use may be allowed, but should be screened to the extent possible from illuminating fish and wildlife habitat areas and their buffers.

12. Specify a standard width for residential foot ramps, stairs, and paths to a dock, pier, boat launch, or beach.

Staff response: Ecology requested that “minimum width necessary” be changed to a specific dimensional standard. Staff recommends the following amendments:

5. Foot ramps, stairs, and paths to provide pedestrian access to a dock, pier, boat launch, or beach may be allowed in the vegetation conservation areas described in Chapter 16.60 KMC, but shall be limited to the minimum width necessary a maximum width of 5’, and shall avoid native vegetation removal to the maximum extent practicable, to provide pedestrian access.

13. In the Shoreline Modifications Table, reword the description of “in-water” to reflect that “in-water” could mean different locations at low and at high water.

Staff response: Ecology recommends this change and staff concurs:

Shoreline Environment	DW	SCC	SR	UC	N	A
Fill						

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Shoreline Environment	DW	SCC	SR	UC	N	A
In-water Waterward of the OHWM, restoration	NA	NA	P	P	P	P
In-water Waterward of the OHWM, non-restoration	NA	NA	C	C	C	C
Grading and dredging						
In-water disposal waterward of the OHWM	NA	NA	X	X	X	P

14. Add a standard for light transmission through grating on a water access structure.

Staff response: Ecology requested this change. Staff recommends the following:

- b. Any decking that is replaced shall be grating with material that has at least 40 percent open space to allow for light transmission, except on sections of floats where the decking overlays a float tub;

15. Revise wording related to size of anchor piles on the Sammamish River.

Staff response: Ecology requested this change. Staff recommends the following:

Anchor piles shall be the minimum size *feasible* given site-specific engineering and design considerations, but in no case shall anchor piles be greater than and shall not exceed 12 inches in diameter unless a larger size allows for a reduced number of piles.

16. Clarify language about ramps to floats.

Staff response: Ecology recommended revising the wording about maximum length of ramps on the Sammamish River to make the regulation more clear. Staff recommends the following:

Ramps shall be the minimum length necessary to provide safe access to the float. The length of the ramp and the distance between the float and the ordinary high water mark are determined by the height of the bank above the ordinary high water mark and the distance waterward of the ordinary high water mark needed to place the float and a boat at a depth that does not result in and to position the float so that the float and a moored boat would not grounding of the float or boat on the substrate or disturbance of the substrate by boat propeller action.

17. Revise the “General” conditions for overwater structures on Lake Washington and the Sammamish River.

Staff response: Ecology recommends revising the wording of the last bullet point regarding “alternative design.” Staff agrees, and recommends the following:

If these standards cannot be met due to a public or private navigational or ecological concern, then an alternative design in lieu of meeting these requirements may be allowed without a shoreline variance if approved by other state and federal agencies, provided any impacts are appropriately mitigated and the facility does not interfere with public use of the shoreline.

18. Eliminate the definition of “floating on-water residences” as there are none in Kenmore, and revise the related regulation.

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Staff response: Ecology recommends eliminating this definition and as there are no floating on-water residences in the City and, by definition, there never could be, staff agrees. The regulations should be revised as follows:

16.10.205 Floating on-water residence.

"Floating on-water residence" means any floating structure other than a floating home, as defined by this chapter:

- A. That is designed or used primarily as a residence on the water and has detachable utilities; and
- B. Whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

16.50.030 Shoreline use table and conditions.

B. Shoreline Use Criteria (Footnotes to Shoreline Use Table in Subsection A of This Section).

9. New overwater residences, including *floating homes* and *on-water residences*, are prohibited except for *live-aboards*. They may be allowed; provided, that:

- a. They are for single-family use only;
- b. They are located in a *marina* that provides shower and toilet facilities on land and there are no sewage discharges to the water;
- c. *Live-aboards* do not exceed 10 percent of the total slips in the *marina*;
- d. They are owner-occupied vessels; and
- e. There are on-shore support services in proximity to the *live-aboards*.