

City of Kenmore



City of Kenmore - 18120 68th Avenue NE - Kenmore, WA 98028
Phone: 425-398-8900 - Fax: 425-481-3236 - E-mail: cityhall@kenmorewa.gov

City of Kenmore Planning Commission Meeting Agenda

Tuesday, June 19, 2018 @ 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. CITIZEN COMMENTS**
- 3. APPROVAL OF MINUTES**

[April 17 Planning Commission Meeting Minutes](#)
[June 5 Planning Commission Meeting Minutes](#)

4. AGENDA ITEMS

[Housing Strategy Plan: Preserving Existing Affordable Housing Memo](#)
[Attachment 1 Part 1 - Final Recommendations](#)
[Attachment 1 Part 2 - Revised Description of Options](#)
[Attachment 2 - Evaluation Criteria](#)
[Additional Correspondence](#)
[Critical Areas and Shoreline Update Memo](#)
[Attachment 1 - Chapter 18.55 KMC & Natural Environment Sub-Element](#)
[Attachment 2 Part 1 - Title 16 Division 1](#)
[Attachment 2 Part 2 - Shoreline Sub-Element](#)
[Attachment 3 - Title 16 Division II](#)
[Attachment 4 - Public Participation Plan](#)

5. ADJOURNMENT

- 6. UPCOMING MEETINGS:**
July 3, 2018, 7:00 p.m. - Meeting to be Cancelled?
July 9, 2018, 6:00 p.m. - (Joint meeting with City Council)
July 17, 2018, 7:00 p.m.

**City of Kenmore
Planning Commission Meeting
April 17, 2018 @ 7:00 p.m.**

Planning Commission Members – In Attendance

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

Consultants & Staff

Debbie Bent, Community Development Director
Lauri Anderson, Senior Planner
Bridgit Baker, Admin Assistant
Mike Stanger, ARCH
Arthur Sullivan, ARCH

1. CALL TO ORDER

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

2. CITIZEN COMMENTS

For this meeting only, there was not an opportunity for verbal comments. However, written comments were welcomed and should be mailed to the Planning Commission at City Hall or emailed to Lauri Anderson (landerson@kenmorewa.gov).

3. APPROVAL OF MINUTES

Commissioner Olson motioned to approve the April 3, 2018 minutes which was seconded by Commissioner Mulcare. The motion passed 5-0 with no abstentions. Commissioner McDonald and Commissioner Baker arrived after the vote was taken.

4. AGENDA ITEMS:

Lauri Anderson explained that the purpose of the meeting was to make the preliminary recommendations for the public hearing. Commissioner Nugent requested that the terminology be consistent and suggested that the term MHP's (Mobile Home Parks) be used. The Planning Commission agreed to look at each park and apply/not apply each option to them.

The Planning Commission unanimously agreed that Option 1 should apply to Lakewood Villa and Inglewood East, but not Lake Terrace, 7021 NE 181st St, Kenmore Village and Lakewood.

The majority of the Planning Commission agreed that Option 2 should apply to Lakewood Villa and Inglewood East, but not Lake Terrace, 7021 NE 181st St, Kenmore Village and Lakewood (with the exception of one Commissioner regarding Lakewood).

The majority of the Planning Commission agreed that Option 3A should apply to Lakewood Villa, Inglewood East, and Lakewood, but not Lake Terrace, 7021 NE 181st St, and Kenmore Village.

The Planning Commission unanimously agreed that Option 3B not apply to any of the parks. Debbie Bent suggested leaving Option 3B on the table even though the Planning Commission agreed that it wasn't applicable to any of the parks so the public could speak to it during the Public Hearing.

The majority of the Planning Commission agreed that Option 4 was not well suited for Lakewood Villa and Inglewood East, but could apply to Lake Terrace, 7021 NE 181st St, Kenmore Village and Lakewood.

Commissioner Vanderlinde motioned that Option 5 for off-site replacement be removed from the list which was seconded by Commissioner Baker. The motion passed 7-0 with no abstentions.

The upcoming Planning Commission Public Hearing is to start at 6:00pm instead of the regular 7:00pm time. Commissioner Mulcare and Commissioner Vanderlinde will not be able to attend on May 16th.

5. ADJOURNMENT

Chair Nugent adjourned the meeting at 8:23 p.m.

Planning Commission

Approved by Planning Commission on: _____

**City of Kenmore
Planning Commission Meeting
June 5, 2018 @ 7:00 p.m.**

Planning Commission Members – In Attendance

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

Consultants & Staff

Lauri Anderson, Senior Planner
Bridgit Baker, Admin Assistant
Mike Stanger, ARCH

1. CALL TO ORDER

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

2. CITIZEN COMMENTS

Sharon Hawkins, 7301 NE 176th St #308, Kenmore, WA 98028. She is a resident of Inglewood East Shores Mobile Home Park. Although we live in a state with no rent control, she believes there should be an RCW or law that protects seniors from the rent increases such as what SHAG and other over 55 communities do. She also asked the Planning Commission for a definition of affordable. If no definition of affordable is available then she believes it should be removed from all contexts.

Robert Spurlock, 7021 NE 181st St #3, Kenmore, WA 98028. He has been a resident of Jim's mobile home park for over 30 years. When he first moved in it was a senior citizens park which is why he moved in after becoming disabled on the job. He would like the Planning Commission to look at the people and find a method to help those that are going to be displaced.

Harry Perfater, resident of Lake Terrace Park. He clarified that he thought the Planning Commission had received his letter submission prior to the May 15th meeting. The people in the mobile home parks came to live there and will have no place to go. He asked that the Planning Commission take this into consideration.

Stacey Valenzuela, resident at Lakewood Villa MHP. She feels that Kenmore has reached the capacity of units for density. She feels that the City now needs to provide more affordable housing for the seniors, workers and vets in the area. She asked the Planning Commission to preserve and protect the mobile home parks.

The City should look to empty lots, older buildings and developers to build more affordable housing rather than displacing mobile home park residents.

John Krumweide, resident of Inglewood East Mobile Home Park. He shared that their park has been improving park since attention was brought to it. Combined, their park pays ¾ million dollars in rent and it was approximately \$400,000 six years ago. This is unsustainable for many of the residents to continue to pay this rent increase. He asked that more protection be written into the laws for this.

Arlene McAley-Bare, 7301 NE 175th St #203, Kenmore, WA 98028. She is a 20-year resident of Inglewood East Mobile Home Park. She asks the Planning Commission for their sincere evaluation and compassion in this zoning matter. Many of the seniors are paying more than half of their income to rent and she is scared. She stated that it takes a village to raise a child but it takes a City to support a senior.

3. APPROVAL OF MINUTES

Commissioner McDonald motioned to approve the May 15 & 16, 2018 minutes which was seconded by Commissioner Baker. The motion passed 5-0 with 2 abstentions. The April 17, 2018 minutes will be tabled until the June 19, 2018 meeting.

4. AGENDA ITEMS:

Lauri Anderson began by stating the objective of the meeting was for the Planning Commission to make their final recommendations for the Mobile Home Park (MHP) options. The Commissioners were to identify what criteria were used in making these decisions and clarify the primary recommendation. Lauri also responded to questions raised by Sharon Hawkins' public comment regarding if there were laws limiting rent increases for low income or seniors. Staff was not aware of any laws and the state does not permit rent control, but there are rent increase notice provisions. Lauri also responded with the definition of affordability. The City of Kenmore considers affordable to be up to 80% King County average median income. Affordability is different for different projects and depends on the circumstances.

The Planning Commission began the evaluations and discussions with Lakewood Villa. Chair Nugent motioned to adopt Options 1, 2 and 3a where 3a is to be modified to require long term preservation for as long as the City provided financial incentives to the owner and the owner would have to share some portion of those benefits with the residents in the form of lower rent. To the extent that the City could not deliver on those benefits, the owners sale rights would be limited to Options 1 and 2. Lauri clarified that financial incentives could be used to recover the loss of development potential, as an alternative or supplement to TDR and fee-in-lieu in Option 1. This motion was seconded by Commissioner McDonald and passed 5-2 with no abstentions. The criteria used to determine these Options were 1,2,3,4,5 and 7.

The second MHP evaluated was Inglewood East. Commissioner Vanderlinde proposed to adopt the same options as Lakewood Villa (Options 1,2 and modified 3a) which was seconded by Commissioner McDonald. The motion passed 7-0 with no abstentions. Commissioner Vanderlinde motioned to adopt using the same criteria as Lakewood Villa (criteria 1,2,3,4,5,7) which was seconded by Vice Chair Ohrenschall. The motion passed 7-0 with no abstentions.

Lake Terrace MHP was discussed next. Commissioner Vanderlinde motioned to adopt the existing recommendation of Option 4 for Lake Terrace which was seconded by Commissioner Baker. The motion passed 7-0 with no abstentions. Commissioner Baker motioned to adopt criteria 1,2,3,5 and 7 for justification of Option 4 which was seconded by Commissioner Mulcare. The motion passed 7-0 with no abstentions.

The unnamed (7021 NE 181st St) MHP was discussed next. Vice Chair Ohrenschall motioned to adopt the recommendation of Option 4 for this MHP which was seconded by Commissioner Vanderlinde. The motion passed 7-0 with no abstentions. Commissioner Mulcare motioned to adopt the same criteria as Lake Terrace MHP (criteria 1,2,3,5 and 7) which was seconded by Commissioner Baker. The motion passed 7-0 with no abstentions.

The fifth MHP discussed was Kenmore Village. Commissioner Vanderlinde motioned to adopt Option 4 which was seconded by Commissioner Baker. The motion passed 7-0 with no abstentions. Commissioner Mulcare motioned to apply criteria 1,2,3,5 and 7 which was later amended to apply only criteria 1,2,3 and 5 for justification of Option 4. The amended motion was seconded by Commissioner Baker. The motion passed 7-0 with no abstentions.

The last MHP discussed was Lakewood MHP. Vice Chair Ohrenschall motioned to adopt the current recommendations of Option 3a and 4 to Lakewood MHP which was seconded by Commissioner Mulcare. The motion passed 5-2 with no abstentions. Vice Chair Ohrenschall motioned to adopt criteria 1,3 and 5 for Option 3a which was seconded by Commissioner Mulcare. The motion passed 5-2 with no abstentions. Commissioner Vanderlinde motioned to adopt criteria 2,3, and 7 for justification of Option 4 which was seconded by Commissioner Baker. The motion passed 6-1 with no abstentions.

Lauri polled the Planning Commission on their availability for the joint Planning Commission and City Council meeting scheduled for July 9th at 6:00pm. Commissioners Baker, Vice Chair Ohrenschall, Commissioner Mulcare and Commissioner McDonald are available, but Commissioner Olson, Chair Nugent and Commissioner Vanderlinde may not be available.

5. ADJOURNMENT

Chair Nugent adjourned the meeting at 8:47 p.m.

Planning Commission

Approved by Planning Commission on: _____



18120 68TH AVENUE NE PO Box 82607
KENMORE, WASHINGTON 98028

MEMO

TO: Planning Commission

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

DATE: June 12, 2018

SUBJECT: Presentation of Mobile Home Park Recommendations

Your joint meeting with the City Council to present the mobile home park (MHP) recommendations is scheduled for 6:00 p.m. on Monday, July 9. At your last meeting, we determined that there would be a Planning Commission quorum for that meeting.

On June 19, the Commission should discuss the presentation to the Council and determine approaches. As always, staff is prepared to give an initial overview of the project. The Council also will have a memo detailing data you have reviewed, a description of the public process, guiding principles you have identified, and treatment options you have rejected.

Attachment 1 contains the summary chart of your final recommendations, along with the more comprehensive description of the options. Edits from the previous version are based on your June 5 discussion. Please review and let staff know if there are any changes needed.

Attachment 2 is the summary of your evaluation criteria analyses.

Attachments

Attachment 1: Final recommendations

Attachment 2: Evaluation criteria analyses

PLANNING COMMISSION’S MOBILE HOME PARK (MHP) RECOMMENDATIONS

“X” in a cell means that the Planning Commission recommends this option for the specific MHP.

	7031 NE 175 th St. (Lakewood Villa)	7301 NE 175 th St. (Inglewood East)	7000 NE 181 st St. (Lake Terrace)	7021 NE 181 st St. (unnamed)	7614 NE Bothell Wy. (Kenmore Village)	6837 NE 182 nd St. (Lakewood)
Option 1 Long-term preservation. The mobile home park (MHP) would be preserved for the long-term through purchase of the property-owner’s development rights and/or provision of direct financial assistance (infrastructure loans, reduced fees, etc.) to the property-owner. Includes protective zoning and/or a preservation covenant for the MHP.	X	X				
Option 2 Long-term preservation. The MHP would be preserved for the long-term through purchase by a preservationist (for example, MHP residents, private nonprofit agency, or public agency). Includes protective zoning and/or a preservation covenant for the MHP after purchase.	X	X				
Option 3 Potential preservation through incentives. The MHP may be preserved for several years through incentives available to the property-owner in exchange for some period of preservation (for example, reduced fees, infrastructure loans, etc.). Taking the incentives would be the property-owner’s choice.						X
Option 4 No City requirement to preserve the MHP (remains the choice of the property owner), but preservation of affordability and assistance. MHP property would be up-zoned with a requirement that redevelopment include affordable housing units comparable in number, size and cost to those being replaced. MHP residents may have first right to rent the new units. Relocation assistance may be provided.			X	X	X	X

MOBILE HOME PARK (MHP) OPTIONS

(6/5/2018)

LONG TERM MHP PRESERVATION

Option 1: Preserve the MHP for the long-term through land value exchanges or other financial assistance

- Allow park owners to either (a) transfer (sell) their development rights (TDR) from the MHP to another designated area and property where increased density is suitable, (b) receive affordable housing fee-in-lieu payments as compensation, and/or (c) receive direct assistance (infrastructure upgrade loans, reduced taxes or fees) in exchange for long-term preservation.
- The park owner and/or its buyer would covenant to preserve the MHP for the long-term, with corollary maintenance requirements, and/or the City would put a protective zoning overlay over the property. The City should consider obtaining “first right of refusal” to buy the park as part of a financial transaction.
- If direct financial assistance is received, a portion of the assistance should be returned to qualified homeowners, if feasible (for example, reduced utility charges).
- The TDR and/or affordable housing fee-in-lieu payments programs would be limited to the City of Kenmore initially, but if unsuccessful, a regional approach could be considered.

City Code/Regulatory Actions:

- Overlay zoning or covenant
- Create fee-in-lieu option (city-wide), and/or
- Create TDR program
- Remove nonconforming status

Possible Direct City Assistance:

- Up-front financing of fee-in-lieu payment to property owner
- Financial assistance for home rehabilitation
- Reduce property-owner operating costs (e.g., utilities, property tax)
- Loans for property upgrades

Issues:

Will there be enough new development in Kenmore to make TDR or fee-in-lieu feasible?

How would the TDR or fee-in-lieu transfer occur? Would the transfer be between individual parties with the City as broker, or would the City or another agency serve as the “bank?”

How would the timing be regulated? For example, would the MHP property owner receive payments over time as new development purchased TDR units or made fee-in-lieu payments, or would the City or another agency front the payment to the property owner?

Who would determine the values of the transfer units or fee-in-lieu?

How would the values of the units or amount of the fees be indexed over time?

Are financial incentives feasible if they are regulated by other entities (State, utility provider, etc.)?

Option 2: Preserve the MHP for the long-term through purchase from the property owner at fair market value

- Purchase the MHP, blending any or all financial resources from MHP residents, private nonprofit agencies, public agencies, or other preservationists.
- After purchase, place a long-term covenant over the property to preserve the park and/or rezone the park to provide protection.

City Code/Regulatory Actions:

- Create fee-in-lieu option (city-wide)

Possible Direct City Assistance:

- Financial assistance (grant or loan) for property purchase/upgrade
- Financial assistance for home rehabilitation

Issues:

Implications for residents/nonprofits/agencies paying fair market value for properties currently planned for higher densities or commercial uses.

Would the property owners wait for the longer time period typically needed to put together financing by groups trying to preserve existing parks?

Would the rezoning approach allow for future redevelopment?

EXTENDED MHP PRESERVATION

Option 3: Potentially preserve the MHP for several years through a variety of incentives offered to the property owner

- Provide direct assistance (infrastructure upgrade loans, reduced taxes or fees) in exchange for some period of preservation, with corollary maintenance responsibilities.
- In exchange for funding, consider obtaining “first right of refusal” to buy the park.

City Code/Regulatory Actions:

- Require relocation plan
- Remove nonconforming status

Possible Direct City Assistance:

- Reduce property-owner operating costs (e.g., utilities, property tax)
- Loans for property upgrades

- Financial assistance for home rehabilitation
- Relocation assistance

Issues:

Are financial incentives feasible if they are regulated by other entities (State, utility provider, etc.)?

Would the property owner continue to maintain the property as the preservation sunset date approached?

Would residents move in/out of the park as the preservation sunset date approached?

PRESERVATION OF AFFORDABILITY WITH ASSISTANCE

Option 4: Do not take City action to preserve the MHP (remains the choice of the property owner), but preserve affordability and provide assistance

- Rezone the MHP property for greater density but require new development to include affordable housing units comparable in number, size and cost to those in the MHP being replaced.
- Provide the current MHP residents with a "right of first opportunity" to rent the newly built affordable units.
- For residents who want to move into the new units, provide temporary relocation assistance and/or other monetary compensation for the loss of their MH unit.
- For residents who do not want to move into the new units, require a relocation plan, a longer notice of park closure, and/or provide a certain amount of relocation assistance.

City Code/Regulatory Actions:

- Upzone with affordability requirement equivalent to mobile homes
- Require relocation plan
- Provide "right of first opportunity" to rent
- Consider requiring a longer notice of park closure

Possible Direct City Assistance:

- Relocation assistance
- Compensation for loss of unit

Issues:

How would residents handle the transition between the closure of the park and the construction of the new units?

Would potential future projects be big enough and at high enough densities to accommodate all of the required units?

Would existing MHP unit sizes (primarily 2 bedroom) be achievable?

Could projects achieve the income levels needed by the current residents?

Should the income limits be adjusted over time once the MHP residents are no longer living in the development?

How would “current residents” be defined? (Residents on the date the notice of park closure is received? Residents at the time of MHP closure? Other?)

What tenant screening requirements would apply?

ATTACHMENT 2 MHP

Evaluation Criteria

The Planning Commission developed several criteria to evaluate the mobile home parks (MHPs) and make their recommendations:

MHP ADDRESS  CRITERIA 		7031 NE 175 th St. (Lakewood Villa)	7301 NE 175 th St. (Inglewood East)	7000 NE 181 st St. (Lake Terrace)	7021 NE 181 st St. (unnamed)	7614 NE Bothell Way (Kenmore Village)	6837 NE 182 nd St. (Lakewood)
1.	Size of MHP (# units)	Large (57)	Large (78)	Small (11)	Small (20)	Medium (27)	Large (63)
2.	Existing % of allowable density	88%	84%	22%	30%	38% (existing zoning, not TOD*)	40%
3.	Consistency with the Comprehensive Plan vision	Consistent	Consistent	Inconsistent	Inconsistent	Moderately consistent with zoning. Inconsistent with TOD overlay.	Moderately consistent
4.	Age restrictions (elderly are a particularly vulnerable population)	Yes	Yes	No	No	No	No
5.	Property sale/ redevelopment timeline (current owner)	10-15 years	Not anticipated	< 5 years	< 5 years	< 5 years	5-10 years
6.	Age of MHP structures (% post-1976)	45%	19%	27%	76%	48%	65%
7.	Environmental issues with redevelopment	Yes: wetlands, river, floodplain, seismic hazard	Yes: wetlands, river, floodplain, seismic hazard	No	No	Yes: wetlands, floodplain, seismic hazard	No
8.	Feasibility of selected option						
RECOMMENDATIONS		Recommend Options 1 and 2 based on criteria 1, 2, 3, 4, 5, and 7.	Recommend Options 1 and 2 based on criteria 1, 2, 3, 4, 5, and 7.	Recommend Option 4 based on criteria 1, 2, 3, 5, and 7.	Recommend Option 4 based on criteria 1, 2, 3, 5, and 7.	Recommend Option 4 based on criteria 1, 2, 3, and 5.	Recommend Option 3 based on criteria 1, 3 and 5. Recommend Option 4 based on criteria 2, 3, and 7.

*Transit-oriented development district

6/5/18

My name is Sharon Hawkins I live at Inglewood East Shores
7301 NE 175th St #308 Kenmore WA 98028.

I have been coming to a lot of these meeting regarding the preservation of mobile home parks. I realize we live in a State where we do not have rent control BUT there has to be some kind of a RCW or law that protects Senior citizens and the elderly in general when it comes to the amount of rent when the community is deemed a 55 and older community.

Places like SHAG and other senior citizen apartment, condos, communities regulate their rents knowing the occupants are on fixed incomes which prevents the residents from being pushed out due to the rents.

If the owners are allowed to get right offs with HUD when a resident is 55 or older then that tell you there has to be something out there to protect 55 and older communities, and I am addressing only 55 and older parks. The only other thing I would like to ask is what is your definition of the word AFFORDABLE? This has been asked over and over and if you cant define it then maybe that word should be removed from all context. For having rent that takes 80% of a person's fixed income is NOT in any way shape or form affordable. Our community doesn't allow room-mates so if you are single the rent is deffinatly a burden and not in the definition of affordable. I know you cant control the rent but there has to be an over looked initiative or law that can ~~assist~~ assist in maintaining the rate a senior citizen parks rent can go.

Thanks for everything you have been doing for us
I truely appreciate your time and efforts.



18120 68TH AVENUE NE PO Box 82607
KENMORE, WASHINGTON 98028

MEMO

TO: Planning Commission

FROM: Debbie Bent, Community Development Director DA
Lauri Anderson, Senior Planner LWA

DATE: June 12, 2018

SUBJECT: Critical Areas/Shoreline Update

The City Council has assigned review of the City's critical areas code and Shoreline Master Program (SMP) to the Planning Commission as part of the 2018 docket. An update to the SMP is due to the State by June 30, 2019. As the City's critical areas regulations are incorporated into the SMP, it is practical to revisit these rules simultaneously.

The City has hired a consulting firm – Shannon & Wilson, Inc. – to provide scientific expertise and other assistance for this project. Amy Summe, Senior Biologist and Project Manager from Shannon & Wilson will be present at your meeting.

Attached for your review are the City's existing critical areas regulations in Chapter 18.55 KMC, along with the Comprehensive Plan Natural Environment Sub-Element (Attachment 1). The pieces of the SMP (Title 16, Division I and the Comprehensive Plan Shoreline Sub-Element) are included as Attachment 2. We also will be reviewing the floodplain regulations in Title 16, Division II (Attachment 3).

At your meeting on the 19th, we will give a general overview of the project and the proposed public involvement approach. Attachment 4 is the draft public participation plan for the project.

Also on the 19th, we will present some preliminary findings from the "gap analysis" currently underway. The gap analysis highlights areas in the Code needing attention.

If, during the critical areas/SMP review, it is determined that Comprehensive Plan amendments are needed, the timeline for the project will have to be adjusted to allow for Council adoption of those changes by the end of the year.

Attachments

- Attachment 1: Chapter 18.55 KMC and the Natural Environment Sub-Element
- Attachment 2: Title 16, Division I and the Shoreline Sub-Element
- Attachment 3: Title 16, Division II
- Attachment 4: Public Participation Plan

**Chapter 18.55
CRITICAL AREAS**

Sections:

Article I. Purpose and General Provisions

- 18.55.010 Purpose and goals.**
- 18.55.020 Authority.**
- 18.55.030 Relationship to other regulations.**
- 18.55.040 Administrative procedures.**
- 18.55.050 Fees.**
- 18.55.070 Administrative rules.**
- 18.55.080 Interpretation.**
- 18.55.090 Jurisdiction – Critical areas.**
- 18.55.100 Protection of critical areas.**

Article II. Best Available Science

- 18.55.110 Best available science.**

Article III. Applicability, Exemptions, and Exceptions

- 18.55.120 Applicability.**
- 18.55.130 Mapping.**
- 18.55.140 Signs and fencing of critical areas.**
- 18.55.150 Exemptions.**
- 18.55.160 Exception – Public agency and utility.**
- 18.55.170 Variances.**
- 18.55.180 Exception – Reasonable use.**

Article IV. Critical Areas Report

- 18.55.190 Critical areas reports – Requirements.**
- 18.55.200 Mitigation requirements.**
- 18.55.210 Mitigation sequencing.**
- 18.55.220 Mitigation plan requirements.**

Article V. Unauthorized Alterations and Enforcement

- 18.55.230 Unauthorized critical area alterations and enforcement.**

Article VI. General Critical Area Protective Measures

- 18.55.250 Notice on title.**

- 18.55.260 Critical area tracts.**
- 18.55.270 Building setbacks.**
- 18.55.280 Bonds to ensure mitigation, maintenance, and monitoring.**
- 18.55.290 Critical area inspections.**

Article VII. Wetlands – Designation and Rating

- 18.55.300 Designation and rating of wetlands.**

Article VIII. Wetlands – Additional Report Requirements

- 18.55.310 Critical areas report.**

Article IX. Wetlands – Performance Standards

- 18.55.320 Performance standards – General requirements.**
- 18.55.330 Performance standards – Mitigation requirements.**

Article X. Streams – Designation and Rating

- 18.55.400 Designation and rating of streams.**

Article XI. Streams – Additional Report Requirements

- 18.55.410 Critical areas report.**

Article XII. Streams – Performance Standards

- 18.55.420 Performance standards – General.**
- 18.55.430 Performance standards – Mitigation requirements.**

Article XIII. Fish and Wildlife Habitats of Importance – Designation

- 18.55.500 Designation of fish and wildlife habitats of importance.**

Article XIV. Fish and Wildlife Habitats of Importance – Report Requirements

- 18.55.510 Critical areas report.**

Article XV. Fish and Wildlife Habitats of Importance – Performance Standards

- 18.55.520 Performance standards – General requirements.**
- 18.55.530 Performance standards – Specific habitats.**

Article XVI. Geologically Hazardous Areas – Designation

- 18.55.600 Purpose.**
- 18.55.610 Designation of geologically hazardous areas.**
- 18.55.620 Designation of specific hazard areas.**

Article XVII. Geologically Hazardous Areas – Report Requirements

- 18.55.630 Critical areas report.**

Article XVIII. Geologically Hazardous Areas – Performance Standards

18.55.640 Performance standards – General requirements.

18.55.650 Performance standards – Specific hazards.

Article XIX. Flood Hazard Areas

18.55.700 Flood hazard areas.

18.55.710 Flood fringe – Development standards and permitted alterations.

18.55.720 Zero-rise floodway – Development standards and permitted alterations.

18.55.730 FEMA floodway – Development standards and permitted alterations.

18.55.740 Flood hazard areas – Certification by engineer or surveyor.

18.55.750 Channel relocation and stream meander areas.

Article I. Purpose and General Provisions

18.55.010 Purpose and goals.

A. The purpose of this chapter is to designate and classify ecologically critical and geologic *hazard areas* in order to protect ecologically *critical areas* and protect lives and property from hazards, while also allowing for *reasonable use of private property*.

B. The *City* finds that *critical areas* provide a variety of valuable and beneficial biological and physical functions that benefit the *City* and its residents, and/or may pose a threat to human safety or to public and *private property*. The beneficial *functions and values* provided by *critical areas* include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, ground water recharge and discharge, *erosion* control, protection from hazards, historical and archaeological and aesthetic value protection, and recreation. These beneficial functions are not listed in order of priority.

C. By limiting *alteration of critical areas*, this chapter seeks to:

1. Strive to protect lives and public and *private property* from flooding;
2. Strive to protect slopes from *erosion* and sliding;
3. Minimize the potential for damage due to liquefaction and seismic hazards;
4. Protect *wetlands* from encroachment and degradation and encourage *wetland restoration*;
5. Protect *streams* from encroachment and degradation and encourage *stream restoration*; and
6. Maintain and promote a diversity of *species* and habitat within the *City*.

D. The regulations of this chapter are intended to protect *critical areas* in accordance with the GMA and through the application of *best available science*.

E. This chapter is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this chapter to make a parcel of property unusable by denying its owner reasonable economic use of the property.

F. The *City's* enactment and enforcement of this chapter shall not be construed for the benefit of any individual person or group of persons other than the general public. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.020 Authority.

A. As provided herein, the *city manager* is given the authority to interpret, apply, and enforce this chapter to accomplish the stated purpose.

B. The *City* may withhold, condition, or deny *development permits* or activity approvals to ensure that the proposed action is consistent with this chapter.

C. In the event that multiple *critical areas* occur on a *site*, it is the authority of the *city manager* to balance the protection of the multiple *critical areas* and provide appropriate *mitigation*. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.030 Relationship to other regulations.

A. These *critical areas* regulations shall be in addition to zoning and other regulations adopted by the *City*. Compliance with other regulations does not exempt the *applicant* from *critical areas* regulations.

B. The *critical area* regulations set forth in KMC 16.05.060(B) shall apply to all *critical areas* located within the jurisdiction of the Kenmore shoreline master program.

C. These *critical areas* regulations shall apply concurrently with review conducted under the State Environmental Policy Act (SEPA) (Chapter 19.35 KMC).

D. Any individual *critical area* adjoined by another type of *critical area* shall have the *buffer* and meet the requirements that provide the most protection to the *critical areas* involved. When any provision of this chapter or any existing regulation, easement, covenant, or deed restriction conflicts with this chapter, that which provides more protection to the *critical areas* shall apply.

E. Compliance with the provisions of this chapter does not constitute compliance with other federal, State, and local regulations and permit requirements that may be required (for example, shoreline substantial development or conditional use permits, shoreline variances, the Washington State Department of Fish and Wildlife *hydraulic project approval* (HPA), Army Corps of Engineers *Section 404 permits*, and National Pollution Discharge Elimination System (NPDES) permits). The *applicant* is responsible for complying with these requirements, apart from the process established in this chapter. [Ord. 12-0334 § 7; Ord. 11-0329 § 3 (Exh. 1).]

18.55.040 Administrative procedures.

The administrative procedures followed during the *critical area* review process shall conform to the standards and requirements of the *City* development regulations, except that, where *critical areas* are located within the jurisdiction of the Kenmore shoreline master program, administrative procedures shall conform to the standards and requirements of Chapter 16.75 KMC. This shall include, but not be limited to, timing, permits, variances, exemptions, exceptions, appeals, and fees associated with applications covered by this chapter. [Ord. 12-0334 § 8; Ord. 11-0329 § 3 (Exh. 1).]

18.55.050 Fees.

The *City* by resolution shall establish fees for *critical area* review processing and other services provided by the *City* as required by this chapter. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.070 Administrative rules.

Applicable *departments* within the *City* are authorized to adopt such administrative rules and regulations as necessary and appropriate to implement this chapter and to prepare and require the use of such forms as necessary for its administration. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.080 Interpretation.

In the interpretation and application of this chapter, the provisions of this chapter shall be considered to be the minimum requirements necessary, shall be liberally construed to serve the purpose of this chapter, and shall be deemed to neither limit nor repeal any other provisions under State statute. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.090 Jurisdiction – Critical areas.

A. The City shall regulate all *uses*, activities, and *developments* within, adjacent to, or likely to affect one or more *critical areas*, consistent with *best available science* and the provisions herein.

B. *Critical areas* regulated by this chapter include:

1. *Wetlands* as designated in KMC [18.55.300](#), Designation and rating of *wetlands*;
2. *Streams* as designated in KMC [18.55.400](#), Designation and rating of *streams*;
3. Fish and wildlife habitats of importance as designated in KMC [18.55.500](#), Designation of fish and wildlife habitats of importance;
4. *Geologically hazardous areas* as designated in KMC [18.55.610](#), Designation of *geologically hazardous areas*; and
5. Frequently flooded areas as designated in KMC [18.55.700](#), *Flood hazard areas*.

C. All areas within the City meeting the definition of one or more *critical areas*, regardless of any formal identification, are hereby designated *critical areas* and are subject to the provisions of this chapter.

D. Areas Adjacent to *Critical Areas* Subject to Regulation. Areas adjacent to *critical areas* shall be considered to be within the jurisdiction of these requirements and regulations to support the intent of this chapter and ensure protection of the *functions and values* of *critical areas*. "Adjacent" shall mean any activity located:

1. On a *site* immediately adjoining a *critical area*;
2. A distance equal to or less than the required *critical area buffer* width and building *setback*;
3. A distance equal to or less than one-half mile (2,640 feet) from a bald eagle nest;
4. A distance equal to or less than 900 feet from the closest nest of a heron rookery; or
5. Within the floodway, *floodplain* or channel migration zone. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.100 Protection of critical areas.

Any action taken pursuant to this chapter shall result in equivalent or greater *functions and values* of the *critical areas* associated with the proposed action, as determined by the *best available science*. All actions and *developments* shall be designed and constructed in accordance with *mitigation* sequencing (KMC [18.55.210](#)) to avoid, minimize, restore, and compensate for adverse impacts. *Applicants* must first demonstrate an inability to avoid or reduce impacts before *restoration* and compensation of impacts will be allowed. No activity or *use* shall be allowed that results in a net loss of the *functions and values* of *critical areas*. [Ord. 11-0329 § 3 (Exh. 1).]

Article II. Best Available Science

18.55.110 Best available science.

A. Protection for *Functions and Values* and *Anadromous Fish*. *Critical areas* reports and decisions to alter *critical areas* shall rely on the *best available science* to protect the *functions and values* of *critical areas*. The *best available science* is scientific information applicable to the *critical area* prepared by local, State or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals, that is consistent with criteria established in WAC [365-195-900](#) through [365-195-925](#). Special consideration shall be given to conservation or protection measures necessary to preserve or enhance *anadromous fish* and their habitat, such as salmon and bull trout, as required by WAC [365-195-900](#) through [365-195-925](#). [Ord. 11-0329 § 3 (Exh. 1).]

Article III. Applicability, Exemptions, and Exceptions

18.55.120 Applicability.

A. The provisions of this chapter shall apply to all lands, all land *uses* and development activity, and all *structures* and facilities in the *City* whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the *City*. No person, company, agency, or *applicant* shall alter a *critical area* or *buffer* except as consistent with the purposes and requirements of this chapter.

B. The *City* shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water, or *vegetation*, or to construct or alter any *structure* or improvement in, over, or on a *critical area* or associated *buffer*, without first assuring compliance with the requirements of this chapter. For development on lands regulated under the Kenmore shoreline master program, compliance with this chapter includes compliance with the requirements of the shoreline master program as well as with the requirements of this chapter.

C. Approval of a permit or *development proposal* pursuant to the provisions of this chapter does not discharge the obligation of the *applicant* to comply with the provisions of this chapter. [Ord. 12-0334 § 9; Ord. 11-0329 § 3 (Exh. 1).]

18.55.130 Mapping.

A. The approximate location and extent of *critical areas* are shown on the *City's critical area* maps. These maps are to be used as a guide and may be updated as new *critical areas* are identified. They are a reference and do not provide a final *critical area* designation. The exact location of a *critical area* and its boundary shall be determined on-site through a field investigation by a *qualified professional*.

B. The following maps identify known *critical areas* located in the *City*:

1. *Wetlands and Streams*.

- a. *City* stream and wetland inventory;
- b. King County critical areas map folio.

2. Fish and Wildlife Habitats of Importance.

- a. Washington State Department of Fish and Wildlife *priority habitat* and species maps;
- b. Washington State Department of Natural Resources official water type reference maps, as amended;
- c. Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors Reports published by the Washington State Conservation Commission; and

d. Washington State Department of Natural Resources State natural area preserves and natural resource conservation area maps.

3. *Geologically Hazardous Areas.*

- a. King County critical areas map folio, as modified by the *City*;
- b. U.S. Geological Survey landslide hazard and seismic hazard maps;
- c. Washington State Department of Natural Resources seismic hazard maps for Western Washington; and
- d. Washington State Department of Natural Resources slope stability maps.

4. *Flood Hazard Areas.* Federal Emergency Management Administration *flood insurance rate maps* and studies. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.140 Signs and fencing of critical areas.

A. *Signs.*

1. *Temporary Markers.* The outer perimeter of the *critical area* or *buffer* and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur, and verified by the *city manager* prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction, and shall not be removed until permanent *signs*, if required, are in place.

2. *Permanent Signs.* As a condition of any permit or authorization issued pursuant to this chapter, the *city manager* may require that the *applicant* install permanent *signs* along the boundary of a *critical area* or *buffer*.

Permanent *signs* shall be made of a metal face and attached to a metal post, or another material of equal durability. *Signs* must be posted at an interval of every 50 feet. If the length of the *lot* is 50 feet or less, one *sign* per *lot* is required. The *sign* must be maintained by the property owner in perpetuity. *Signs* must be placed in a visible location and remain visible throughout any future site *development*. The *signs* shall include the *City's* logo and shall be worded as follows or with alternative language approved by the *city manager* based on specifications available from the *City*:

Environmentally Critical Area

Do Not Disturb

Contact the City of Kenmore

425-398-8900

Regarding Uses and Restriction

B. *Fencing.*

1. The *city manager* shall condition any permit or authorization issued pursuant to this chapter to require the *applicant* to install a permanent *fence* at the edge of the *critical area* and *buffer*, when fencing will prevent future impacts to the habitat conservation area.

2. The *applicant* shall be required to install a permanent natural wood, split-rail *fence* around the *critical area* and *buffer*.

3. Fencing installed shall be designed so as to not interfere with *species* migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

4. Fencing is not required for single-family residential *lots* where subdivision is not proposed. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.150 Exemptions.

Exempt activities shall avoid impacts to *critical areas*. All exempted activities shall use reasonable methods to avoid potential impacts to *critical areas*. To be exempt from this chapter does not give permission to degrade a *critical area* or ignore risk from natural hazards. Any incidental damage to, or alteration of, a *critical area* shall be restored, rehabilitated, or replaced at the responsible party's expense to prior condition or better.

A. Exempt Activities. The following *developments*, activities, and associated *uses* shall be exempt from the provisions of this chapter; provided, that they are otherwise consistent with the provisions of other local, State, and federal laws and requirements:

1. Activities, including routine maintenance, involving artificial drainage features intentionally created from nonwetland sites, including but not limited to grass-lined swales, irrigation and drainage ditches, detention facilities, and landscape features;
2. Normal and routine maintenance, operation and reconstruction of existing roads, *streets*, utilities and associated rights-of-way and *structures*; provided, that reconstruction of any *structures* may not increase the *impervious surface* area or remove flood storage capacity;
3. Normal maintenance and repair, and reconstruction or remodeling of residential or commercial *structures*, or legal preexisting and ongoing *uses* of the *site*; provided, that reconstruction of any *structures* may not increase the previously approved *building* footprint;
4. *Site* investigative work and studies necessary for preparing land use applications, including soils tests, water quality studies, wildlife studies and similar tests and investigations, where such activities do not require construction of new roads or significant amounts of excavation; and provided, that any disturbance of the *critical area* shall be the minimum necessary to carry out the work or studies and disturbed areas shall be immediately restored;
5. Educational activities, scientific research, and passive outdoor recreational activities, including but not limited to interpretive field trips, birdwatching, and previous *trails* for hiking, that will not have a significant adverse effect on the *critical area*;
6. *Emergency* activities necessary to prevent an immediate threat to public health, safety, property or welfare;
7. Minor activities not mentioned above and determined by the *city manager* to have minimal impacts to a *critical area*;
8. Installation, construction, replacement, repair or alteration of utilities and their associated facilities, lines, pipes, mains, equipment or appurtenances in improved *City street* rights-of-way.

B. Operation, Maintenance or Repair. Operation, maintenance or repair of existing *structures*, infrastructure improvements, utilities, public or *private* roads, dikes, levees or drainage systems, that do not require construction permits, if the activity does not further alter or increase the impact to, or

encroach further within, the *critical area* or *buffer* and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair.

C. Modification to Existing Structures.

1. Structural modification of, addition to, or replacement of single detached residences in existence before November 27, 1990, which do not meet the building *setback* or *buffer* requirements for *wetlands*, *streams* or *landslide hazard areas* if the modification, addition, replacement or related activity does not increase the existing footprint of the residence lying within the above-described *buffer* or building *setback* area by more than 500 square feet over that existing before November 27, 1990. No portion of the modification, addition or replacement may be located closer than the closest point of the residence to the *critical area* or, if the existing residence is in the *critical area*, no portion may extend farther into the *critical area*.

2. Structural modification of, addition to, or replacement of *structures*, except single detached residences, in existence before November 27, 1990, which do not meet the building *setback* or *buffer* requirements for *wetlands*, *streams* or *landslide hazard areas* if modification, addition, replacement or related activity does not increase the existing footprint of the *structure* lying within the above-described building *setback* area, *critical area* or *buffer*.

D. Activities within the Improved Right-of-Way. Replacement, modification, installation, or construction of *utility facilities*, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a City-authorized *private* roadway, except those activities that alter a *wetland* or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater.

E. Select *Vegetation* Removal Activities. The following *vegetation* removal activities; provided, that no *vegetation* shall be removed from a *critical area* or its *buffer* without approval from the *city manager*:

1. The removal of *vegetation* listed in King County's *noxious weed* list.
2. The removal of *trees* that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to *private* property, from *critical areas* and *buffers*; provided, that the *city manager* determines that the disturbance to the *critical area* is minimal.
3. Measures to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act, Chapter 76.09 RCW; provided, that the removed *vegetation* shall be replaced *in-kind* or with similar native species within one year in accordance with an approved *restoration* plan. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.160 Exception – Public agency and utility.

A. If the application of this chapter would prohibit a *development proposal* by a *public agency* or public utility, the agency or utility may apply for an exception pursuant to this section, unless the project is located on lands regulated under the Kenmore Shoreline Master Program. Projects on lands regulated under the Kenmore Shoreline Master Program are regulated under the procedures of Chapter 16.75 KMC.

B. Exception Request and Review Process. An application for a *public agency* and utility exception shall be made to the *City* and shall include a *critical areas* report, including *mitigation* plan, if necessary, and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (SEPA).

C. *City Manager Review*. The *city manager* shall review the application. The *city manager* shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the *public agency* and utility exception criteria in subsection D of this section.

D. *Public Agency and Utility Review Criteria*. The criteria for review and approval of *public agency* and utility exceptions follow:

1. There is no other *practical alternative* to the proposed *development* with less impact on the *critical areas*; and
2. The application of this chapter would unreasonably restrict the ability to provide utility services to the public. [Ord. 12-0334 § 10; Ord. 11-0329 § 3 (Exh. 1).]

18.55.170 Variances.

A. *Variances* from the *buffer* width and building *setback* standards of this chapter may be authorized by the *City* in accordance with the procedures set forth in the *City's* zoning code, unless the project is located on lands regulated under the Kenmore shoreline master program. Projects on lands regulated under the Kenmore shoreline master program are regulated under the procedures of Chapter 16.75 KMC.

B. No *variance* is allowed in order to create additional *lots*.

C. The *City* may grant a *variance*; provided, that the *applicant* demonstrates that:

1. There are special circumstances applicable to the subject property or to the intended *use* such as shape, topography, location or surroundings that do not apply generally to other properties and which support the granting of a *variance* from the buffer width requirements; and
2. Such *variance* is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property but which because of special circumstances is denied to the property in question; and
3. The granting of such buffer width *variance* will not be materially detrimental to the public welfare or injurious to the property or improvement; and
4. The granting of the buffer width *variance* will not significantly impact the subject *critical area*; and
5. The decision to grant the *variance* includes the *best available science* and gives special consideration to conservation or protection measures necessary to preserve or enhance *anadromous fish habitat*; and
6. The granting of the *variance* is consistent with the general purpose and intent of the *City's* comprehensive plan and adopted development regulations.

D. *Conditions May Be Required*. In granting any *variance*, the *City* may prescribe such conditions and safeguards as are necessary to secure adequate protection of *critical areas* from adverse impacts, and to ensure conformity with this chapter.

E. *City Manager Review*. The *city manager* shall review the application. The *city manager* shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the *variance* criteria in this section.

F. *Time Limit*.

1. Establishment of any development activity authorized pursuant to a *variance* shall occur within four years of the effective date of the decision for such *variance*. This period may be extended for one additional year by the *city manager* if the *applicant* has submitted the applications necessary to authorize the development activity and has provided written justification for the extension.

2. For the purpose of this subsection, "establishment" shall occur upon the issuance of all local permit(s) needed to begin the development activity; provided, that the improvements authorized by such permits are completed within the timeframes of said permits.

G. Burden of Proof. The burden of proof shall be on the *applicant* to bring forth evidence in support of the application and upon which any decision has to be made on the application. [Ord. 12-0334 § 11; Ord. 11-0329 § 3 (Exh. 1).]

18.55.180 Exception – Reasonable use.

A. If the application of this chapter pertaining to *critical areas* will prevent the *applicant* from making any *reasonable use* of the subject property, the *applicant* may apply for an exception pursuant to this section unless the project is located on lands regulated under the Kenmore shoreline master program. Projects on lands regulated under the Kenmore shoreline master program are regulated under the procedures of Chapter 16.75 KMC. An application for a reasonable use exception must accompany a *development permit* application through the City's review and decision process.

1. Criteria for Granting. The *city manager* shall grant a *reasonable use* allowance only when the following criteria are met:

- a. The *applicant* demonstrates that the application of this chapter will deny all *reasonable use* of the subject property otherwise allowed by applicable law;
- b. The development activities involve the least intrusion into and disruption of the *critical area* necessary to allow a *reasonable use* of the subject property;
- c. The development activities will not cause or result in damage to properties other than the subject property and will not endanger the public health, safety or welfare;
- d. The *applicant's* inability to make *reasonable use* of the subject property has not resulted from any of the following:
 - (1) Prior subdivision or segregation of the subject property, or changes to the boundaries of the subject property through a boundary line adjustment or otherwise; or
 - (2) Prior actions taken in violation of this chapter or any local, State, or federal law or regulation;
- e. No other *reasonable use* of the property has less impact on the *critical area*;
- f. The inability of the *applicant* to derive *reasonable use* of the property is not the result of actions by the *applicant* after the effective date of the ordinance codified in this chapter, or its predecessor; and
- g. *Mitigation* proposed by the *applicant* is sufficient to protect the *functions and values* of the *critical area* and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of this chapter.

2. Appeals. The *applicant* may appeal a decision of the *city manager* on a *reasonable use* allowance application to the *hearing examiner* pursuant to the provisions of the Kenmore Municipal Code.

B. Exception Request and Review Process. An application for a *reasonable use* exception shall be made to the *City* and shall include a *critical areas* report, including *mitigation* plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 19.35 KMC).

C. *City Manager* Review. The *city manager* shall review the application. The *city manager* shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the criteria in subsection A of this section.

D. Burden of Proof. The burden of proof shall be on the *applicant* to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

E. Time Limit.

1. Establishment of any development activity authorized pursuant to a *reasonable use* exception shall occur within four years of the effective date of the decision for such *reasonable use* exception. This period may be extended for one additional year by the *city manager* if the *applicant* has submitted the applications necessary to authorize the development activity and has provided written justification for the extension.

2. For the purpose of this subsection, "establishment" shall occur upon the issuance of all local permit(s) needed to begin the development activity; provided, that the improvements authorized by such permits are completed within the timeframes of said permits. [Ord. 12-0334 § 12; Ord. 11-0329 § 3 (Exh. 1).]

Article IV. Critical Areas Report

18.55.190 Critical areas reports – Requirements.

A. Prepared by *Qualified Professional*. The *applicant* shall submit a *critical areas* report prepared by a *qualified professional* as defined herein.

B. Incorporating *Best Available Science*. The *critical areas* report shall use scientifically valid methods and studies in the analysis of *critical area* data and field reconnaissance and reference the source of science used. The *critical areas* report shall evaluate the proposal and all probable impacts to *critical areas* in accordance with the provisions of this chapter.

C. *Critical Areas* Report Contents. Requirements for *critical areas* reports are available from the *city manager*. In addition, the *applicant* shall provide any additional known information pertaining to the *critical area(s)* on the subject property and adjacent properties. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.200 Mitigation requirements.

A. The *applicant* shall avoid all impacts that degrade the *functions and values* of *critical areas*. Unless otherwise provided in this chapter, if *alteration* to the *critical area* is unavoidable, all adverse impacts to or from *critical areas* and *buffers* resulting from a *development proposal* or *alteration* shall be mitigated in accordance with an approved *critical areas* report and SEPA documents.

B. *Mitigation* shall be *in-kind* and on-site, when possible, and sufficient to maintain the *functions and values* of the *critical area*, or to prevent risk from a hazard posed by a *critical area*. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.210 Mitigation sequencing.

Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to *critical areas*. When an *alteration* to a *critical area* is proposed, such *alteration* shall be avoided, minimized, or compensated for as outlined by WAC 197-11-768, in the following order of preference:

- A. Avoiding the impact altogether by not taking a certain action or parts of actions;
- B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
- C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
- E. Compensating for the impact by replacing or providing substitute resources or environments; and/or
- F. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

Mitigation for individual actions may include a combination of the above measures. [Ord. 12-0334 § 13; Ord. 11-0329 § 3 (Exh. 1).]

18.55.220 Mitigation plan requirements.

When *mitigation* is required, the *applicant* shall submit for approval by the *City* a *mitigation* plan as part of the *critical areas* report. *Mitigation* plan requirements are available from the *city manager*.

Within 30 days of installation of the approved *mitigation*, the *applicant* shall submit an affidavit signed by the *qualified professional* described in KMC 18.55.190 certifying that the *mitigation* has been installed consistent with the approved plan, unless the installed *mitigation* has been inspected and accepted by the *department*. [Ord. 11-0329 § 3 (Exh. 1).]

Article V. Unauthorized Alterations and Enforcement

18.55.230 Unauthorized critical area alterations and enforcement.

A. When a *critical area* or its *buffer* has been altered in violation of this chapter, all ongoing *development* work shall stop and the *critical area* shall be restored. The *City* shall have the authority to issue a stop work order to cease all ongoing *development* work, and order *restoration*, rehabilitation or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this chapter.

B. *Restoration Plan Required*. All *development* work shall remain stopped and the *site* stabilized until a *restoration* plan is prepared and approved by the *City*. Such a plan shall be prepared by a *qualified professional* and shall describe how the actions proposed meet the minimum requirements described in subsection C of this section. The *city manager* shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the *applicant* or violator for revision and resubmittal.

C. Minimum Performance Standards for *Restoration*. For *alterations* to *wetlands*, *streams*, and fish and wildlife habitat areas of importance the following minimum performance standards shall be met for the *restoration* of a *critical area*; provided, that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

1. The historic structural and functional values shall be restored, including water quality and habitat functions;
2. The historic soil types and configuration shall be replicated;
3. The *critical area* and *buffers* shall be replanted with *native vegetation* that replicates the *vegetation* historically found on the *site* in species types, sizes, and densities; and
4. The historic *functions* and *values* should be replicated at the location of the *alteration*.

D. *Site Investigations*. The *city manager* is authorized to make *site* inspections and take such actions as are necessary to enforce this chapter. The inspector shall present proper credentials and make a reasonable effort to contact any property owner before entering onto *private* property.

E. *Monitoring*. *Monitoring* shall be required for five years unless otherwise determined by the *city manager*. A performance and/or maintenance bond of 125 percent of the estimated cost of restoring the *functions* and *values* of the *critical area* shall be posted to assure that all work or actions are satisfactorily completed or maintained in accordance with the approved plans, specifications, permit or approval requirements, and applicable regulations, and to assure that all work or actions will be completed. [Ord. 11-0329 § 3 (Exh. 1).]

Article VI. General Critical Area Protective Measures

18.55.250 Notice on title.

A. In order to inform subsequent purchasers of real property of the existence of *critical areas*, the owner of any property containing a *critical area* or *buffer* on which a *development proposal* is submitted shall file a notice with the county records and elections division according to the direction of the *City*. The notice shall state the presence of the *critical area* or *buffer* on the property, of the application of this chapter to the property, and the fact that limitations on actions in or affecting the *critical area* or *buffer* may exist. The notice shall run with the land.

B. This notice on title shall not be required for a *development proposal* by a public agency or public or *private* utility:

1. Within a recorded easement or right-of-way;
2. Where the agency or utility has been adjudicated the right to an easement or right-of-way; or
3. On the *site* of a permanent public facility.

C. The *applicant* shall submit proof that the notice has been filed for public record before the *City* approves any *development proposal* for the property or, in the case of subdivisions, short subdivisions, and binding site plans, at or before recording. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.260 Critical area tracts.

A. *Critical area tracts* shall be used in *development proposals* for subdivisions, short subdivisions, site plan reviews, commercial and multifamily building permits, and binding site plans to delineate and protect those contiguous *critical areas* and *buffers* listed below:

1. All *wetlands* and *buffers*;
2. All *streams* and *buffers*;
3. All fish and wildlife habitat areas of importance;
4. *Geologically hazardous areas* and *buffers*, if applicable; and
5. All other lands to be protected from *alterations* as conditioned by project approval.

B. *Critical area tracts* shall be recorded on all documents of title of record for all affected *lots*.

C. *Critical area tracts* shall be designated on the face of the plat, short plat or recorded drawing in a format approved by the *City*. The designation shall include the following restriction:

1. An assurance that *native vegetation* will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and *erosion*, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat; and
2. The right of the *City* to enforce the terms of the restriction.

D. The *City* shall determine at the *City's* discretion that any required *critical area tract* be dedicated to the *City*, held in an undivided interest by each owner of a building *lot* within the *development* with the ownership interest passing with the ownership of the *lot*, or held by an incorporated homeowner's association or other legal entity (such as a land trust, which assures the ownership, maintenance, and protection of the tract). [Ord. 11-0329 § 3 (Exh. 1).]

18.55.270 Building setbacks.

Unless otherwise provided, *buildings* and other *structures* shall be set back a distance of 15 feet from the edges of all *critical area buffers* or from the edges of all *critical areas*, if no *buffers* are required. *Structures* that may extend into or be located in the required *setback* are listed in KMC 18.30.230. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.280 Bonds to ensure mitigation, maintenance, and monitoring.

A. When *mitigation* required pursuant to a *development proposal* is not completed prior to the *City* final permit approval, such as final plat approval or final building inspection, the *City* shall require the *applicant* to post a performance bond or other security in a form and amount deemed acceptable by the *City*. If the *development proposal* is subject to *mitigation*, the *applicant* shall post a *mitigation* bond or other security in a form and amount deemed acceptable by the *City* to ensure *mitigation* is fully functional.

B. The performance bond shall be in the amount of 125 percent of the estimated cost of the installed *mitigation* project (including *monitoring*) or the estimated cost of restoring the *functions and values* of the *critical area* that are at risk, whichever is greater.

C. The bond shall be in the form of a surety bond, performance bond, assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the *city* attorney.

D. Bonds or other security authorized by this section shall remain in effect until the *City* determines, in writing, that the standards bonded for have been met. Bonds or other security shall be held by the *City* for a minimum of five years to ensure that the required *mitigation* has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.

E. Depletion, failure, or collection of bond funds shall not discharge the obligation of an *applicant* or violator to complete required *mitigation*, maintenance, *monitoring*, or *restoration*.

F. Public *development proposals* shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for *mitigation*, maintenance, *monitoring*, or *restoration*.

G. Any failure to satisfy *critical area* requirements established by law or condition including, but not limited to, the failure to provide a *monitoring* report within 30 days after it is due or comply with other provisions of an approved *mitigation* plan shall constitute a default, and the *City* may demand payment of any *financial guarantees* or require other action authorized by the *City* code or any other law.

H. Any funds recovered pursuant to this section shall be used to complete the required *mitigation*. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.290 Critical area inspections.

Reasonable access to the *site* shall be provided to the *City*, State, and federal agency review staff for the purpose of inspections of the *critical area* during any proposal review, *restoration*, *emergency* action, or *monitoring* period. [Ord. 11-0329 § 3 (Exh. 1).]

Article VII. Wetlands – Designation and Rating

18.55.300 Designation and rating of wetlands.

A. Designating *Wetlands*. All areas within the *City* meeting the *wetland* designation criteria in the Washington State Identification and Delineation Manual (1997), regardless of any formal identification, are hereby designated *critical areas* and are subject to the provisions of this chapter.

B. *Wetland* Ratings. *Wetlands* shall be rated using criteria outlined below:

1. *Wetlands* Classification. *Wetlands*, as defined by this chapter, shall be designated Class 1, Class 2, and Class 3 according to the criteria below.

a. Class 1 *wetlands* are those *wetlands* that meet any of the following criteria:

- (1) Documented habitat for federal or State listed *endangered* or *threatened* fish, animal, or plant species; or
- (2) *Wetlands* listed as high quality habitats in the Natural Heritage Information System; or
- (3) *Wetlands* with irreplaceable ecological functions, including sphagnum bogs and fens or natural forested swamps; or
- (4) *Wetlands* of exceptional local significance, specifically those *wetlands* proximal to and influenced by the main stem of Swamp Creek, the Sammamish River, or Lake Washington.

b. Class 2 *wetlands* are those *wetlands* which are not Class 1 *wetlands* and meet any of the following criteria:

- (1) *Wetlands* that have significant functions that may not be adequately replicated through creation or *restoration*; or
- (2) *Wetlands* associated with Type 2 or 3 *streams*; or

(3) *Wetlands* greater than one acre in size; or

(4) *Wetlands* equal to or less than one acre having three or more classes of *wetland vegetation* (as defined in *Classification of Wetlands and Deepwater Habitats of the United States* (Cowardin et al., 1979)); or

(5) *Wetlands* containing a *forested wetland* class.

c. Class 3 *wetlands* are those *wetlands* not rated as Class 1 or 2 *wetlands*, but greater than 1,000 square feet in size.

C. *Buffer Areas*.

1. The establishment of *buffer areas* shall be required for all *development proposals* and activities in or adjacent to *wetland areas*. The purpose of the *buffer* shall be to protect the integrity, function, and value of the *critical area*, and/or to protect life, property and resources from risks associated with *development* on unstable or critical lands. *Buffers* shall be protected during construction by placement of a temporary barricade, on-site notice for construction crews of the presence of the *critical area*, and implementation of appropriate *erosion* and sedimentation controls. *Native vegetation* removal or disturbance is not allowed in established *buffers*.

2. Required *buffer widths* (KMC 18.55.320(F)) shall reflect the sensitivity of the particular *critical area* and resource or the risks associated with *development* and, in those circumstances permitted by these regulations, the type and intensity of human activity and site design proposed to be conducted on or near the *critical area*. [Ord. 11-0329 § 3 (Exh. 1).]

Article VIII. Wetlands – Additional Report Requirements

18.55.310 Critical areas report.

Requirements for *critical areas* reports for *wetlands* are available from the *city manager*. [Ord. 11-0329 § 3 (Exh. 1).]

Article IX. Wetlands – Performance Standards

18.55.320 Performance standards – General requirements.

A. Activities may only be permitted in a *wetland* or *wetland buffer* if the *applicant* can show that the proposed activity will not degrade the *functions and values* of the *wetland* and other *critical areas* and no other feasible site design exists that results in less encroachment or impact to the *wetland* or *wetland buffer*.

B. Activities and *uses* shall be prohibited from *wetlands* and *wetland buffers*, except as provided for in this chapter.

C. Class 1 *Wetlands*. Activities and *uses* shall be prohibited from Class 1 *wetlands*, except as provided for in the public agency and utility exception or *reasonable use* exception sections of this chapter.

D. Class 2 and 3 *Wetlands*. Activities may be permitted, if the *city manager* determines, based upon review of special studies completed by *qualified professionals*, that the activity meets avoidance and minimization requirements outlined in KMC 18.55.210 and will not:

1. Adversely affect water quality;
2. Adversely affect fish, wildlife, or their habitat;

3. Have an adverse effect on drainage and/or stormwater detention capabilities;
4. Lead to unstable earth conditions or create an *erosion* hazard or contribute to scouring actions;
5. Be materially detrimental to any other property or the *City* as a whole; or
6. Have adverse effects on any other *critical areas*.

E. Limited Exemption. Class 3 *wetlands* less than 1,000 square feet may be exempted from the provisions of KMC [18.55.300](#) to [18.55.330](#) and may be altered by filling or dredging if the *City* determines that the cumulative impacts do not unduly counteract the purposes of this chapter and are mitigated pursuant to an approved *mitigation* plan.

F. *Wetland Buffers*.

1. *Wetland buffers* shall be established as follows:

<i>Wetland Type</i>	<i>Buffer Width (Feet)</i>
Class 1	150
Class 2	100
Class 3	60

2. Measurement of *Wetland Buffers*. *Wetland buffers* shall be measured from the *wetland edge* as delineated and marked in the field using the 1987 U.S. Army Corps of Engineers Wetland Delineation Manual and current regional supplements or as may be revised in WAC [173-22-035](#) and [173-22-080](#) or the most recent approved federal manual and regional supplements.

3. Increased *Wetland Buffer Widths*. The *city manager* shall require increased *buffer widths* in accordance with the recommendations of a *qualified professional biologist* and the *best available science* on a case-by-case basis when a larger *buffer* is necessary to protect *wetland functions and values* based on *site-specific* characteristics. This determination shall be based on one or more of the following criteria:

- a. A larger *buffer* is needed to protect other *critical areas*;
- b. The *buffer* has a slope greater than 30 percent or is susceptible to *erosion* and standard *erosion-control* measures will not prevent adverse impacts to the *wetland*. In such cases, the *buffer* shall be increased to include the slope or the standard *buffer* shall be drawn from the top of the slope, whichever provides greater protection.

4. Averaged or Reduced *Buffer Widths*. *Buffer widths* may be averaged or reduced if an *applicant* receives approval as provided in this section. An *applicant* may request either (1) *buffer averaging*, or (2) *buffer reduction with enhancement*. A combination of these two *buffer modification* approaches shall not be used.

- a. *Wetland Buffer Width Averaging*. The *city manager* may allow averaging of the *wetland buffer width* in accordance with an approved *critical areas* report and the *best available science* on a case-by-case basis. Averaging of *buffer widths* may only be allowed where a *qualified professional biologist* demonstrates that:

- (1) Additional protection to the *wetland* will be provided through implementation of a *buffer enhancement plan*;

- (2) It will not reduce *wetland functions* or values;
- (3) The *wetland* contains variations in sensitivity due to existing physical characteristics or the character of the *buffer* varies in slope, soils, or *vegetation*, and the *wetland* would benefit from a wider *buffer* in places and would not be adversely impacted by a narrower *buffer* in other places;
- (4) The total area contained in the *buffer* after averaging is no less than that which would be contained within the standard *buffer*; and
- (5) For Class 1 and 2 *wetlands*, the *buffer* width shall not be reduced by more than 20 percent in any one place. For Class 3 *wetlands*, the *buffer* width shall not be reduced to less than 50 feet in any one place.

b. *Buffer Reduction with Enhancement*. Standard *buffer* widths for *degraded wetland buffers* may be reduced through a combination of *buffer enhancement* and *low impact development* strategies. The *applicant* shall demonstrate that through enhancing the *buffer* and use of *low impact development* strategies the reduced *buffer* will function at a higher level than the standard *buffer*. *Buffers* may be reduced in the following manner according to *wetland* type:

<i>Wetland Category</i>	<i>Maximum Buffer Reduction</i>	<i>Minimum Buffer Width (Feet)</i>
1	25 percent	112.5 feet
2	25 percent	75 feet
3	25 percent	45 feet

c. *Decisional Criteria*. Prior to approval of a reduced *buffer*, a *critical areas* application shall meet all of the decisional criteria listed below. A reduced *buffer* will be approved in a *degraded wetland buffer* only if:

- (1) It will provide an overall improvement in water quality;
- (2) It will provide an overall *enhancement* to fish, wildlife, or their habitat;
- (3) It will provide a net improvement in drainage and/or stormwater detention capabilities;
- (4) It will not lead to unstable earth conditions or create an *erosion* hazard;
- (5) It will not be materially detrimental to any other property or the *City* as a whole; and
- (6) All exposed areas are stabilized with *native vegetation*, as appropriate.

d. *Buffer Enhancement Plan*. As part of the *buffer* reduction request, the *applicant* shall submit a *buffer enhancement* plan prepared by a *qualified professional* and fund a review of the plan by the *City's* wetland consultant. The plan shall assess the habitat, water quality, stormwater detention, ground water recharge, shoreline protection, and *erosion* protection functions of the *buffer*; assess the effects of the proposed modification on those functions; and address the six criteria listed in subsection (F)(4)(c) of this section.

5. *Buffer Conditions Shall Be Maintained*. Except as otherwise specified or allowed in accordance with this chapter, *wetland buffers* shall be retained in an undisturbed condition.

6. *Buffer Uses*. The following *uses* may be permitted within a *wetland buffer* in accordance with the review procedures of this chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the *buffer* and adjacent *wetland*:

- a. Conservation and *Restoration Activities*. Conservation or *restoration* activities aimed at protecting the soil, water, *vegetation*, or wildlife;
- b. Passive Recreation. Passive recreation facilities designed in accordance with an approved *critical areas* report, including:
 - (1) Walkways and *trails*; provided, that those pathways that are generally parallel to the perimeter of the *wetland* shall be located in the outer 25 percent of the *buffer* area;
 - (2) Walkway and *trail* surfaces shall be made of pervious materials except that public multipurpose *trails* may be of impervious materials if they meet all other requirements, including water quality;
 - (3) Wildlife viewing *structures*; and
 - (4) Fishing access areas;
- c. Stormwater Management Facilities. Grass-lined swales and dispersal trenches may be located in the outer 25 percent of the *buffer* area of Class 2 and 3 *wetlands* only. All other surface water management facilities are not allowed within the *buffer* area.

7. Building *Setback*. A building *setback* from the *buffer* edge is required per KMC 18.55.270. [Ord. 12-0334 § 14; Ord. 11-0329 § 3 (Exh. 1).]

18.55.330 Performance standards – Mitigation requirements.

A. *Mitigation Shall Achieve Equivalent or Greater Ecological Functions*. *Mitigation* for *alterations* to *wetlands* and *buffers* shall achieve equivalent or greater ecologic functions than exist in the impacted *wetland* and *buffer*. *Mitigation* plans shall be generally consistent with the Department of Ecology Guidelines found in Wetland Mitigation in Washington State – Part 2, Version 1, March 2006, Publication No. 06-060-011b.

B. *Mitigation for Lost Functions and Values*. *Mitigation* actions shall address functions affected by the *alteration* to achieve functional equivalency or improvement, and shall provide similar *wetland functions* as those lost except when:

- 1. The lost *wetland* provides minimal functions as determined by a site-specific function assessment and the proposed *mitigation* action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal watershed assessment plan or protocol; or
- 2. Out-of-kind replacement will best meet formally identified regional goals, such as replacement of historically diminished *wetland* types.

C. *Buffers for Mitigation Shall Be Consistent*. All *mitigation* sites shall have *buffers* consistent with the *buffer* requirements of this chapter, unless determined by the *city manager* through a *variance* or a *reasonable use* exemption that a different *buffer* would provide adequate protection to the *critical area*.

D. Preference of *Mitigation* Actions. *Mitigation* sequencing outlined in KMC 18.55.210 shall be demonstrated in each *development proposal*. *Mitigation* actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:

1. Restoring *wetlands* on upland sites that were formerly *wetlands*.
2. Creating *wetlands* in upland areas, considering degraded areas first.
3. Enhancing significantly degraded *wetlands*.
4. Preserving high quality *wetlands* that are under imminent threat.

E. Type and Location of *Mitigation*. *Mitigation* actions shall be conducted within the same *sub-drainage basin* or on the same *site* as the *alteration* except when all of the following apply:

1. There are no reasonable on-site or in-*subdrainage-basin* opportunities, or on-site and in-*subdrainage-basin* opportunities do not have a high likelihood of success due to development pressures or adjacent land *uses*, or on-site *buffers* or connectivity is inadequate;
2. Off-site *mitigation* has a greater likelihood of providing equal or improved *wetland functions* than the impacted *wetland*; and
3. Off-site locations shall be in the same *subdrainage basin* unless established regional or watershed goals for water quality, flood or conveyance, habitat or other *wetland functions* have been established and strongly justify location of *mitigation* at another *site*.

F. *Mitigation* Timing. Where feasible, *mitigation* or *restoration* projects shall be completed prior to activities that will disturb *wetlands*. In all other cases, *mitigation* shall be completed immediately following disturbance and prior to use or occupancy of the activity or *development*. Construction of *mitigation* projects shall be timed to reduce impacts to existing wildlife and flora.

G. *Mitigation* Ratios.

1. Acreage Replacement Ratios. The following ratios shall apply to creation or *restoration* that is *in-kind*, on-site, the same class, timed prior to or concurrent with *alteration*, and has a high probability of success. These ratios do not apply to remedial actions resulting from unauthorized *alterations*; greater ratios shall apply on a case-by-case basis. These ratios do not apply to the use of credits from a State-certified *wetland mitigation bank*. The first number specifies the acreage of replacement *wetlands* and the second specifies the acreage of *wetlands* altered.

Class 1	3 to 1
Class 2	2 to 1
Class 3	1 to 1

The required acreage replacement ratios for *wetlands* within the jurisdiction of the Kenmore shoreline master program are different from these standards. See KMC 16.65.010(C) for required *wetland* mitigation ratios in the shoreline jurisdiction.

2. Increased Replacement Ratio. The *city manager* may increase the ratios under the following circumstances:

- a. Uncertainty exists as to the probable success of the proposed *restoration* or creation; or

- b. A significant period of time will elapse between impact and replication of *wetland functions*;
or
- c. *Mitigation* will occur off-site versus on-site; or
- d. Proposed *mitigation* will result in a lower category *wetland* or reduced functions relative to the *wetland* being impacted; or
- e. The impact was an unauthorized impact.

3. Decreased Replacement Ratio.

- a. The *city manager* may decrease the replacement ratios required for Class 1 and 2 *wetlands* to 2:1 and 1.5:1, respectively, under the following circumstances:

- (1) The *applicant's* qualified *biologist* provides documentation that increases the certainty of success of the proposed *wetland restoration* or creation. At a minimum, this documentation shall include ground water *monitoring* in the area of proposed *restoration* or creation in the early growing season over a sufficient period of time to determine that there is a high probability of creating or restoring *wetlands* in that location; or
- (2) Proposed *mitigation* will result in a higher functioning *wetland* (higher class) relative to the functions of the *wetland* being impacted; or
- (3) The *mitigation* is successfully installed for a period of one year prior to the *wetland* being impacted. Successful installation shall be determined by a qualified *biologist*.

- b. When a decreased replacement ratio is allowed, the *mitigation* shall be monitored for a period of no less than 10 years.

H. Wetlands Enhancement as Mitigation.

1. Impacts to *wetlands* may be mitigated by *enhancement* of existing significantly degraded *wetlands*. *Applicants* proposing to enhance *wetlands* must produce a *critical areas* report that identifies how *enhancement* will increase the functions of the degraded *wetland* and how this increase will adequately mitigate for the loss of *wetland* area and function at the impact site. An *enhancement* proposal must also show whether existing *wetland functions* will be reduced by the *enhancement* actions.

2. At a minimum, *enhancement* acreage shall be double the acreage required for creation or *restoration*.

I. *Mitigation Banking*. The *City* may consider and approve *mitigation banking* as a form of compensatory *mitigation* for *wetland* impacts when the provisions of this chapter require *mitigation* and when it is clearly demonstrated that the use of a bank will provide equivalent or greater replacement of *critical area functions and values* when compared to on-site *mitigation*; provided, that all of the following criteria are met:

1. Banks shall only be used when they provide significant ecological benefits including long-term conservation of *critical areas*, important *species*, habitats, and when they are consistent with the *City* comprehensive plan and create a viable alternative to the piecemeal *mitigation* for individual project impacts to achieve ecosystem-based conservation goals.

2. The bank shall be established in accordance with the Washington State Draft Mitigation Banking Rule (Chapter [173-700](#) WAC) or as revised, and Chapter [90.84](#) RCW and the federal *mitigation banking* guidelines as outlined in the Federal Register Volume 60, No. 228, November 28, 1995. These guidelines establish the procedural and technical criteria that banks must meet to obtain State and federal certification.

3. Preference shall be given to *mitigation banks* that implement *restoration* actions that have been identified formally by an adopted shoreline *restoration* plan or the Lake Washington/Cedar/Sammamish (WRIA 8) Watershed Chinook Salmon Conservation Plan. [Ord. 12-0334 §§ 15, 16; Ord. 11-0329 § 3 (Exh. 1).]

Article X. Streams – Designation and Rating

18.55.400 Designation and rating of streams.

A. *Stream* Classification. *Streams* shall be designated Type 1, Type 2, Type 3, and Type 4 according to the criteria in this section.

1. Type 1 *streams* are those *streams* identified as “shorelines of the State” under Chapter [90.58](#) RCW, including the Sammamish River and the main stem of Swamp Creek.

2. Type 2 *streams* are those *streams* that are:

- a. Natural *streams* that have perennial (year-round) flow and are used by *salmonid* fish; or
- b. Natural *streams* that have intermittent flow and are used by *salmonid* fish.

3. Type 3 *streams* are those *streams* that are:

- a. Natural *streams* that have perennial flow and are used by fish other than *salmonids*; or
- b. Natural *streams* that have intermittent flow and are used by fish other than *salmonids*.

4. Type 4 *streams* are those natural *streams* with perennial or intermittent flow that are not used by fish.

B. Ditches. Ditches are artificial drainage features created in uplands through purposeful human action, such as irrigation and drainage ditches, grass-lined swales, and canals. Purposeful creation must be demonstrated through documentation, photographs, statements and/or other evidence. Ditches are excluded from regulation as *streams*, unless they are used by fish. Drainage setbacks are required as per the City's surface water runoff policy (Chapter [13.35](#) KMC). [Ord. 11-0329 § 3 (Exh. 1).]

Article XI. Streams – Additional Report Requirements

18.55.410 Critical areas report.

Requirements for *critical areas* reports for *streams* are available from the *city manager*. [Ord. 11-0329 § 3 (Exh. 1).]

Article XII. Streams – Performance Standards

18.55.420 Performance standards – General.

A. Establishment of *Stream Buffers*. The establishment of *buffer* areas shall be required for all *development proposals* and activities in or adjacent to *streams*. The purpose of the *buffer* shall be to protect the integrity, function, and value of the *stream* and provide habitat for heron and other wildlife.

Buffers shall be protected during construction by placement of a temporary barricade, on-site notice for construction crews of the presence of the *stream*, and implementation of appropriate *erosion* and sedimentation controls. *Native vegetation* removal or disturbance is not allowed in established *buffers*.

Required *buffer* widths shall reflect the sensitivity of the *stream* or the risks associated with *development* and, in those circumstances permitted by these regulations, the type and intensity of human activity and site design proposed to be conducted on or near the *critical area*.

B. *Stream Buffers*.

1. The following *buffers* are established for *streams* to protect *functions and values*, including heron habitat:

<i>Stream Type</i>	<i>Buffer Width (Feet)</i>
Type 1 and Little Swamp Creek	150
Type 2	100
Type 3	50
Type 4	25

2. Measurement of *Stream Buffers*. *Stream buffers* shall be measured perpendicularly from the ordinary high water mark.

3. Increased *Stream Buffer* Widths. The *city manager* shall require increased *buffer* widths in accordance with the recommendations of a *qualified professional* and the *best available science* on a case-by-case basis when a larger *buffer* is necessary to protect *stream functions and values* based on site-specific characteristics. This determination shall be based on one or more of the following criteria:

- a. A larger *buffer* is needed to protect other *critical areas*;
- b. The *buffer* has a slope greater than 30 percent or is susceptible to *erosion* and standard *erosion-control* measures will not prevent adverse impacts to the *stream*. The *buffer* should be measured from the toe of the slope. In such cases, the *buffer* shall be increased to include the slope or the standard *buffer* shall be drawn from the top of the slope, whichever provides greater protection.

4. *Buffer Reduction with Enhancement*. Standard *buffer* widths for degraded *buffers* may be reduced through a combination of *buffer enhancement* and *low impact development* strategies. The *applicant* shall demonstrate that through enhancing the *buffer* and use of *low impact development* strategies the reduced *buffer* will function at a higher level than the standard *buffer*. *Buffers* may be reduced in the following manner according to *stream* type:

<i>Stream Type</i>	<i>Maximum Buffer Reduction</i>	<i>Minimum Buffer Width (Feet)</i>
Type 1 and Little Swamp Creek	25 percent	112.5 feet

<i>Stream Type</i>	<i>Maximum Buffer Reduction</i>	<i>Minimum Buffer Width (Feet)</i>
Type 2	25 percent	75 feet
Type 3	25 percent	37.5 feet
Type 4	25 percent	18.75 feet

a. Prior to approval of a reduced *buffer*, a *critical areas* application shall meet all of the decisional criteria listed below. A reduced *buffer* will be approved in a degraded *stream buffer* only if:

- (1) It will provide an overall improvement in water quality;
- (2) It will provide an overall *enhancement* to fish, wildlife, or their habitat;
- (3) It will provide a net improvement in drainage and/or stormwater detention capabilities;
- (4) It will not lead to unstable earth conditions or create an *erosion* hazard;
- (5) It will not be materially detrimental to any other property or the *City* as a whole; and
- (6) All exposed areas are stabilized with *native vegetation*, as appropriate.

b. As part of the *buffer* reduction request, the *applicant* shall submit a *buffer enhancement* plan prepared by a *qualified professional* and fund a review of the plan by the *City's* wetland consultant. The plan shall assess the habitat, water quality, stormwater detention, ground water recharge, shoreline protection, and *erosion* protection functions of the *buffer*, assess the effects of the proposed modification on those functions; and address the six criteria listed in subsection (B)(4)(a) of this section.

5. *Buffer Conditions Shall Be Maintained.* Except as otherwise specified or allowed in accordance with this chapter, *stream buffers* shall be retained in an undisturbed condition.

6. *Buffer Uses.* The following *uses* may be permitted within a *stream buffer* in accordance with the review procedures of this chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the *buffer* and adjacent *stream*:

- a. *Conservation and Restoration Activities.* Conservation or *restoration* activities aimed at protecting the soil, water, *vegetation*, or wildlife;
- b. *Passive Recreation.* Passive recreation facilities designed in accordance with an approved *critical areas* report, including:
 - (1) Walkways and *trails*; provided, that those pathways that are generally parallel to the perimeter of the *stream* shall be located in the outer 25 percent of the *buffer* area;
 - (2) Walkway and *trail* surfaces shall be made of pervious materials except that public multipurpose *trails* may be of impervious materials if they meet all other requirements, including water quality;
 - (3) Wildlife viewing *structures*; and
 - (4) Fishing access areas.

c. Stormwater Management Facilities. Grass-lined swales and dispersal trenches may be located in the outer 25 percent of the *buffer* area. All other surface water management facilities are not allowed within the *buffer* area.

7. Building *Setback*. A building *setback* is required from the edge of the *buffer* per KMC 18.55.270.

C. *Stream Crossings*. *Stream* crossings may be allowed and may encroach on the otherwise required *stream buffer* if:

1. All crossings use bridges or other construction techniques which do not disturb the *stream* bed or bank, except that bottomless culverts or other appropriate methods demonstrated to provide fisheries protection may be used for Type 2 or 3 *streams* if the *applicant* demonstrates that such methods and their implementation will pose no harm to the *stream* nor inhibit migration of fish;
2. All crossings are constructed during the summer low flow and are timed to avoid *stream* disturbance during periods when use is critical to *salmonids*;
3. Crossings do not occur over *salmonid* spawning areas unless the *City* determines that no other possible crossing site exists;
4. Bridge piers or abutments are not placed within the *Federal Emergency Management Agency (FEMA) floodway* or below the *ordinary high water mark*;
5. Crossings do not diminish the flood-carrying capacity of the *stream*;
6. Underground utility crossings are laterally drilled and located at a depth of four feet below the maximum depth of scour for the *base flood* predicted by a civil engineer licensed by the State of Washington. Temporary bore pits to perform such crossings may be permitted within the *stream buffer* established in this chapter; and
7. Crossings are minimized and serve multiple purposes and properties whenever possible.

D. *Stream Relocations*.

1. *Stream* relocations may be allowed only for:

a. All *stream* types as part of a public project for which a public agency and utility exception is granted pursuant to this chapter; or

b. Type 3 or 4 *streams* for the purpose of enhancing resources in the *stream* if:

(1) Appropriate *floodplain* protection measures are used; and

c. The location occurs on-site except that relocation off-site may be allowed if the *applicant* demonstrates that any on-site relocation is impracticable, the *applicant* provides all necessary easements and waivers from affected property owners and the off-site location is in the same drainage *sub-basin* as the original *stream*.

2. For any relocation allowed by this section, the *applicant* shall demonstrate, based on information provided by a civil engineer and a qualified *biologist*, that:

a. The equivalent *base flood* storage volume and function will be maintained;

b. There will be no adverse impact to local ground water;

- c. There will be no increase in velocity;
- d. There will be no interbasin transfer of water;
- e. There will be no increase in the sediment load;
- f. There is an overall increase in habitat function and value for *salmonids* and other fish;
- g. Requirements set out in the *mitigation* plan are met;
- h. The relocation conforms to other applicable laws; and
- i. All work will be carried out under the direct supervision of a qualified *biologist*.

E. *Stream Enhancement*. *Stream enhancement* not associated with any other *development proposal* may be allowed if accomplished according to a plan for its design, implementation, maintenance and *monitoring* prepared by a civil engineer and a qualified *biologist* and carried out under the direction of a qualified *biologist*.

F. *Minor Stream Restoration*. A minor *stream restoration* project for *fish habitat enhancement* may be allowed if:

1. The project results in an increase in *stream functions and values*;
2. The *restoration* is sponsored by a *public agency* with a mandate to do such work;
3. The *restoration* is not associated with *mitigation* of a specific *development proposal*;
4. The *restoration* is limited to removal of non-native *vegetation* and *enhancement* of *riparian vegetation*, placement of rock weirs, log controls, spawning gravel and other specific *salmonid* habitat improvements;
5. The *restoration* only involves the use of hand labor and *light equipment*; or the use of helicopters, cranes, or aerial equipment which deliver supplies to the project *site*; provided, that they have no contact with *critical areas* or their *buffers*; and
6. The *restoration* is performed under the direction of a qualified *biologist*. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.430 Performance standards – Mitigation requirements.

A. *Stream Mitigation*. *Mitigation* of adverse impacts to *riparian* habitat areas shall result in equivalent *functions and values* on a per function basis, be located as near to the *alteration* as feasible, and be located in the same *subdrainage basin* as the impacted habitat.

B. *Alternative Mitigation for Stream Areas*. The performance standards set forth in this section may be modified at the *City's* discretion if the *applicant* demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected *subdrainage basin* as a result of alternative *mitigation* measures. [Ord. 11-0329 § 3 (Exh. 1).]

Article XIII. Fish and Wildlife Habitats of Importance – Designation

18.55.500 Designation of fish and wildlife habitats of importance.

A. Fish and wildlife habitats of importance are those habitat areas that meet any of the following criteria:

1. Documented presence of *species* listed by the federal government or the State of Washington as *endangered* or *threatened*; or
2. Heron rookeries or active nesting trees; or
3. Class 1 *wetlands* as defined in these regulations; or
4. Type 1 *streams* as defined in these regulations.
5. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292).

B. All areas within the *City* meeting one or more of these criteria, regardless of any formal identification, are hereby designated *critical areas* and are subject to the provisions of this chapter.

C. The *City* may accept and consider nominations for habitat areas and *species* to be designated as fish and wildlife habitats of importance. Nominations will be accepted on an annual basis. Guidelines for nomination are available from the *city manager*. [Ord. 11-0329 § 3 (Exh. 1).]

Article XIV. Fish and Wildlife Habitats of Importance – Report Requirements

18.55.510 Critical areas report.

Requirements for *critical areas* reports for fish and wildlife habitats of importance are available from the *city manager*. [Ord. 11-0329 § 3 (Exh. 1).]

Article XV. Fish and Wildlife Habitats of Importance – Performance Standards

18.55.520 Performance standards – General requirements.

A. Habitat Management Plan. A habitat management plan is required when the *priority habitats* and species maps or natural heritage program maps provided by the *City*, or other information, indicate the presence of areas with which critical *species* listed as *endangered* or *threatened* under federal or State law have a primary association.

1. All habitat management plans shall be prepared in consultation with the State Department of Fish and Wildlife. Habitat management plans for critical *species* listed as *endangered* or *threatened* shall be approved by the Department of Fish and Wildlife.
2. Habitat Management Plan Content Requirements. Based on the characteristics of the *site* and information submitted by the *applicant*, the *city manager* may require that all or a portion of the following be included in a habitat management plan:
 - a. A map drawn to scale or survey showing the following information:
 - (1) All lakes, ponds, *streams*, and *wetlands* on, or adjacent to, the subject property, including the name (if named), *ordinary high water mark* of each, and the *stream* type or *wetland* class consistent with this chapter.
 - (2) The location and description of the fish and wildlife habitats of importance on the subject property, as well as any potential fish and wildlife habitats of importance within 200 feet of the subject property as shown on maps maintained by the *City*.
 - (3) The location of any observed evidence of use by a listed *species*.

- b. An analysis of how the proposed *development* activities will affect the fish and wildlife habitats of importance and listed *species*.
- c. Provisions to reduce or eliminate the impact of the proposed *development* activities on any fish and wildlife habitats of importance and listed *species*.
- d. The habitat management plan should also address the following issues:
 - (1) Prohibition or limitation of *development* activities within the fish and wildlife habitats of importance;
 - (2) Establishment of a *buffer* around the fish and wildlife habitat conservation area;
 - (3) Retention of certain *vegetation* or areas of *vegetation* critically important to the listed *species*;
 - (4) Limitation of access to the fish and wildlife habitats of importance and *buffer*;
 - (5) Seasonal restrictions on construction activities on the subject property;
 - (6) Clustering of *development* on the subject property; and
 - (7) The preservation or creation of a habitat area for the listed *species*.

B. *Alterations* shall not degrade the *functions and values* of habitat. Fish and wildlife habitat areas of importance may be altered only if the proposed *alteration* of the habitat or the *mitigation* proposed does not degrade the quantitative and qualitative *functions and values* of the habitat. All new *structures* and land *alterations* shall be prohibited from habitat areas of importance, except in accordance with this chapter.

C. *Nonindigenous* species shall not be introduced. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a fish and wildlife habitat area of importance unless authorized by a State or federal permit or approval.

D. *Mitigation* shall result in contiguous habitat. *Mitigation* sites shall be located to achieve contiguous wildlife habitat corridors in accordance with a *mitigation* plan that is part of an approved *critical areas* report to minimize the isolating effects of *development* on habitat areas, so long as *mitigation* of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

E. *Mitigation* shall achieve equivalent or greater biological functions. *Mitigation* of *alterations* to habitat areas of importance shall achieve equivalent or greater biologic functions and shall include *mitigation* for adverse impacts upstream or downstream of the *development proposal* site. *Mitigation* shall address each function affected by the *alteration* to achieve functional equivalency or improvement on a per function basis.

F. Approvals shall be supported by the *best available science*. Any approval of *alterations* or impacts to a fish and wildlife habitat of importance shall be supported by the *best available science*.

G. *Buffers*.

- 1. Establishment of *Buffers*. The *city manager* shall require the establishment of *buffer* areas for activities in, or adjacent to, fish and wildlife habitats of importance, when needed to protect fish and wildlife habitats of importance. *Buffers* shall consist of an undisturbed area of *native vegetation*, or

areas identified for *restoration*, established to protect the integrity, *functions and values* of the affected habitat. *Buffer enhancement* may be required. Required *buffer* widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby, and shall be consistent with the management recommendations issued by the State Department of Fish and Wildlife.

2. Seasonal Restrictions. When a *species* is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions, as determined by the Washington State Department of Fish and Wildlife, may apply. Larger *buffers* may be required and activities may be further restricted during the specified season. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.530 Performance standards – Specific habitats.

A. Endangered, Threatened, and Sensitive Species.

1. No *development* shall be allowed within a fish and wildlife habitat of importance or *buffer* with which State or federally *endangered*, *threatened*, or sensitive *species* have a primary association except as otherwise approved through this chapter. For fish habitat of importance on lands regulated under the Kenmore shoreline master program, development also must meet the use and development requirements of the Kenmore shoreline master program.

2. Whenever activities are proposed adjacent to a fish and wildlife habitat of importance with which State or federally *endangered*, *threatened*, or sensitive *species* have a primary association, such area shall be protected through the application of protection measures in accordance with a *critical areas* report prepared by a *qualified professional* and approved by the *City*. Approval for *alteration* of land adjacent to the fish and wildlife habitat of importance or its *buffer* shall not occur prior to consultation with the Department of Fish and Wildlife and the appropriate federal agency.

3. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a *qualified professional*. Activities are adjacent to bald eagle sites when they are within 800 feet of an active nest, or within a quarter mile (2,640 feet) of an active nest and in a shoreline foraging area. The *City* shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the *City* and the Washington State Department of Fish and Wildlife.

B. Great Blue Heron Rookery.

1. A *buffer* equal to the distance of a 900-foot radius measured from the outermost nest *tree* in the rookery will be established around an active rookery. This area will be maintained in *native vegetation*. For the Kenmore heron rookery located adjacent to the Kenmore park-and-ride lot, the *buffer* excludes the area south of the north edge of the State Route 522 right-of-way and west of the east edge of the 73rd Avenue NE right-of-way.

2. Between January 1st and July 31st, no *clearing*, *grading* or land disturbing activity shall be allowed within 900 feet of the rookery unless approved by the *City* and Washington State Department of Fish and Wildlife. For the Kenmore heron rookery located adjacent to the Kenmore park-and-ride lot, the area south of the north edge of the State Route 522 right-of-way and west of the east edge of 73rd Avenue NE right-of-way is excluded.

3. Approval of permits for activities within the heron rookery *buffer* shall not occur prior to the approval of a habitat management plan by the *City* and the Washington State Department of Fish and Wildlife.

C. Anadromous Fish.

1. All activities, *uses*, and *alterations* proposed to be located in water bodies used by *anadromous fish* or in areas that affect such water bodies shall give special consideration to the preservation and *enhancement* of *anadromous fish habitat*, including, but not limited to, adhering to the following standards:

- a. Activities shall be timed to occur only during the allowable work window as designated by the Washington State Department of Fish and Wildlife for the applicable *species*;
- b. An alternative alignment or location for the activity is not feasible;
- c. The activity is designed so that it will provide an overall improvement in the functions or values of the *fish habitat* or other *critical areas*; and
- d. Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved *critical areas* report.

2. *Structures* that prevent the migration of *salmonids* shall not be allowed in the portion of water bodies currently or historically used by *anadromous fish*. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.

3. Fills, when authorized by the *City's* shoreline management master program, shall not adversely impact *anadromous fish* or their habitat or shall mitigate any *unavoidable impacts*, and shall only be allowed for a *water-dependent use*. [Ord. 12-0334 § 17; Ord. 11-0329 § 3 (Exh. 1).]

Article XVI. Geologically Hazardous Areas – Designation

18.55.600 Purpose.

The primary purpose of *geologically hazardous area* regulations is to avoid and minimize potential impacts to life and property from geologic hazards. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.610 Designation of geologically hazardous areas.

Geologically hazardous areas include areas susceptible to *erosion*, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible *development* is sited in areas of significant hazard. Such incompatible *development* may not only place itself at risk, but also may increase the hazard to surrounding *development* and *use*. Areas susceptible to one or more of the following types of hazards shall be designated as a *geologically hazardous area*:

- A. *Erosion* hazard;
- B. *Landslide* hazard;
- C. Seismic hazard; and
- D. Other geological events including *mass wasting*, *debris flows*, rock falls, and *differential settlement*. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.620 Designation of specific hazard areas.

A. *Erosion Hazard Areas.* *Erosion hazard areas* are those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service or identified by a special study as having a "moderate to severe," "severe," or "very severe" *erosion* potential.

B. *Landslide Hazard Areas.* *Landslide hazard areas* are areas potentially subject to *landslides* based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Examples of these may include, but are not limited to, the following:

1. Areas of historic failures, such as:
 - a. Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "severe" limitation for building site *development*; or
 - b. Areas designated as Quaternary slumps, earthflows, mudflows, or *landslides* on maps published by the U.S. Geological Survey or State Department of Natural Resources;
2. Areas with all three of the following characteristics:
 - a. Slopes steeper than 15 percent; and
 - b. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying relatively impermeable sediment; and
 - c. Springs or ground water seepage;
3. Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or that are underlain or covered by mass wastage debris of that epoch;
4. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;
5. Areas potentially unstable because of rapid *stream* incision, stream bank *erosion*, and undercutting by wave action;
6. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by *debris flows* or catastrophic flooding; and
7. Areas with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet. A slope is delineated by establishing its toe and measured by averaging the inclination over at least 10 feet of vertical relief.

C. *Seismic Hazard Areas.* *Seismic hazard areas* are locations subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:

1. The magnitude of an earthquake;
2. The distance from the source of an earthquake;
3. The type or thickness of geologic materials at the surface; and

4. The type of subsurface geologic structure.

Settlement and soil liquefaction conditions occur in areas underlain by cohesionless, loose, or soft-saturated soils of low density, typically in association with a shallow ground water table.

D. Other Hazard Areas. *Geologically hazardous areas* shall also include areas determined by the *city manager* to be susceptible to other geological events including *mass wasting*, *debris flows*, and *differential settlement*. [Ord. 11-0329 § 3 (Exh. 1).]

Article XVII. Geologically Hazardous Areas – Report Requirements

18.55.630 Critical areas report.

A *critical areas* report shall be required for all proposed *alterations* of properties that are located within 200 feet of any *geologically hazardous area*. Requirements for *critical areas* reports for *geologically hazardous areas* are available from the *city manager*. [Ord. 11-0329 § 3 (Exh. 1).]

Article XVIII. Geologically Hazardous Areas – Performance Standards

18.55.640 Performance standards – General requirements.

A. *Alterations of geologically hazardous areas* or associated *buffers* may only occur for activities that:

1. Will not increase the threat of the geological hazard to adjacent properties beyond predevelopment conditions;
2. Will not adversely impact other *critical areas*;
3. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than predevelopment conditions; and
4. Are certified as safe as designed and under anticipated conditions by a qualified engineer or *geologist* licensed in the State of Washington.

B. *Critical Facilities Prohibited*. *Critical facilities* shall not be sited within *geologically hazardous areas* unless there is no other *practical alternative*. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.650 Performance standards – Specific hazards.

A. *Erosion and Landslide Hazard Areas*. Activities on *sites* containing *erosion* or *landslide* hazards shall meet the following requirements:

1. *Buffer Required for Erosion Hazard Areas*. No *buffer* is required from an area categorized as only an *erosion hazard area*.
2. *Buffer Required for Landslide Hazard Areas*. A *buffer* shall be established from all edges of *landslide hazard areas*. The size of the *buffer* shall be determined by the *city manager* to eliminate or minimize the risk of property damage, death or injury resulting from *landslides* caused in whole or part by the *development*, based upon review of and concurrence with a *critical area* report prepared by a *qualified professional*.
 - a. *Minimum Buffer*. The minimum *buffer* shall be equal to the height of the slope, as measured from the toe to the top, or 50 feet, whichever is greater.
 - b. *Buffer Reduction*. The *buffer* may be reduced to a minimum of 10 feet when a *qualified professional* demonstrates to the *city manager's* satisfaction based upon review of a special

study that the reduction will adequately protect the proposed *development*, adjacent *developments* and *uses* and the subject *critical area*.

c. Increased *Buffer*. The *buffer* may be increased where the *city manager* determines a larger *buffer* is necessary to prevent risk of damage to proposed and existing *development*.

d. Building *Setback*. A building *setback* is required from the edge of the *buffer* per KMC 18.55.270.

3. *Alterations*. *Alterations* of an *erosion hazard area* or a *landslide hazard area* and/or its *buffer* may only occur for activities for which a special study is submitted and certifies that:

a. The *alteration* will not increase surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions;

b. The *alteration* will not decrease slope stability on adjacent properties; and

c. Such *alterations* will not adversely impact other *critical areas*.

4. Design Standards. *Alterations* within an *erosion hazard area*, *landslide hazard area* and/or *buffer* shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of this chapter. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:

a. The proposed *development* shall not decrease the factor of safety for *landslide* occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the International Building Code;

b. *Structures* and improvements shall be *clustered* to avoid *geologically hazardous areas* and other *critical areas*;

c. *Structures* and improvements shall minimize *alterations* to the natural contour of the slope and foundations shall be tiered where possible to conform to existing topography;

d. *Structures* and improvements shall be located to preserve the most critical portion of the *site* and its natural landforms and *vegetation*;

e. The proposed *development* shall not result in greater risk or a need for increased *buffers* on neighboring properties;

f. The use of *retaining walls* that allow the maintenance of existing natural slope area is preferred over graded artificial slopes; and

g. *Development* shall be designed to minimize impervious *lot* coverage.

5. *Vegetation Shall Be Retained*. Unless otherwise provided or as part of an approved *alteration*, removal of *vegetation* from an *erosion* or *landslide hazard area* or related *buffer* shall be prohibited.

6. Seasonal Restriction. *Clearing* shall be allowed only from May 1st to October 1st of each year; provided, that the *City* may extend or shorten the dry season on a case-by-case basis depending

on actual weather conditions, except that timber harvest, not including brush clearing or stump removal, may be allowed pursuant to an approved *forest practice* permit issued by the *City* or the Department of Natural Resources.

7. Utility Lines and Pipes. Utility lines and pipes shall be permitted in *erosion* and *landslide hazard areas* only when the *applicant* demonstrates that no other *practical alternative* is available. The line or pipe shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance shall be allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior.

8. Point Discharges. Point discharges from surface water facilities and roof drains onto or upstream from an *erosion* or *landslide hazard area* shall be prohibited except as follows:

- a. Conveyed via continuous storm pipe downslope to a point where there are no *erosion hazard areas* downstream from the discharge;
- b. Discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state; or
- c. Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed *buffer* demonstrated to be adequate to infiltrate all surface and stormwater runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope.

9. Subdivisions. The division of land in *landslide hazard areas* and associated *buffers* is subject to the following:

- a. Land that is located wholly within a *landslide hazard area* or its *buffer* may not be subdivided. Land that is located partially within a *landslide hazard area* or its *buffer* may be divided; provided, that each resulting *lot* has sufficient buildable area outside of, and will not affect, the *landslide hazard* or its *buffer*; and
- b. Access roads and utilities may be permitted within a *landslide hazard area* and associated *buffer* if the *City* determines that no other feasible alternative exists.

10. Prohibited *Development*. On-site sewage disposal systems, including drain fields, shall be prohibited within *landslide hazard areas* and related *buffers*.

11. Slopes Created by Previous *Grading*. Artificial slopes meeting the criteria of a *landslide hazard area* based on slope steepness and height that were created through previous permitted *grading* may be further altered or graded provided the applicant provides information from a *qualified professional* demonstrating that the naturally occurring slope, as it existed prior to the permitted *grading*, did not meet any of the criteria for a *landslide hazard area* and that a new hazard will not be created.

B. *Seismic Hazard Areas*. Activities proposed to be located in *seismic hazard areas* shall meet the standards of KMC 18.55.640, Performance standards – General requirements.

C. *Other Hazard Areas*. Activities on *sites* containing or adjacent to other *geologically hazardous areas* shall meet the standards of KMC 18.55.640, Performance standards – General requirements. [Ord. 11-0329 § 3 (Exh. 1).]

Article XIX. Flood Hazard Areas

18.55.700 Flood hazard areas.

A. *Flood hazard areas* consist of the following components:

1. *Floodplain*;
2. *Flood fringe*;
3. *Zero-rise floodway*; and
4. *Federal Emergency Management Agency (FEMA) floodway*.

B. The *City* shall determine the *flood hazard area* after obtaining, reviewing and utilizing *base flood elevations* and available floodway data for a flood having a one percent chance of being equaled or exceeded in any given year, often referred to as the "100-year flood." The *base flood* is determined for existing conditions, unless a basin plan including projected flows under future developed conditions has been completed and adopted by the *City*, in which case these future flow projections shall be used. In areas where the flood insurance study for the *City* includes detailed *base flood* calculations, those calculations may be used until projections of future flows are completed and approved by the *City*. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.710 Flood fringe – Development standards and permitted alterations.

Development proposals on *sites* within the *flood fringe* area shall meet the following requirements:

A. *Development proposals* shall not reduce the effective *base flood* storage volume of the *floodplain*. *Grading* or other activity which would reduce the effective storage volume shall be mitigated by creating *compensatory storage* on the *site* or off the *site* if legal arrangements can be made to assure that the effective *compensatory storage* volume will be preserved over time. *Grading* for construction of livestock manure storage facilities to control nonpoint source water pollution designed to the standards of and approved by the *City* is exempt from this *compensatory storage* requirement.

B. All elevated construction shall be designed and certified by a professional structural engineer licensed by the State of Washington and shall be approved by the *City* prior to construction.

C. Subdivisions, short subdivisions and binding site plans shall meet the following requirements:

1. New building *lots* shall contain 5,000 square feet or more of buildable land outside the *zero-rise floodway*, and building *setback* areas shall be shown on the face of the plat to restrict permanent structures to this buildable area;
2. All utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed consistent with subsections D, E and H of this section;
3. *Base flood* data and flood hazard notes shall be shown on the face of the recorded subdivision, short subdivision or binding site plan including, but not limited to, the *base flood elevation*, required *flood protection elevations* and the boundaries of the *floodplain* and the *zero-rise floodway*, if determined; and
4. The following notice shall also be shown on the face of the recorded subdivision, short subdivision or binding site plan for all affected lots:

NOTICE

Lots and structures located within flood hazard areas may be inaccessible by emergency vehicles during flood events. Residents and property owners should take appropriate advance precautions.

D. New residential *structures* and *substantial improvements* of existing residential *structures* shall meet the following requirements:

1. The lowest floor shall be elevated to the *flood protection elevation*;
2. Portions of a *structure* which are below the lowest floor area shall not be fully enclosed. The areas and rooms below the lowest floor shall be designed to automatically equalize hydrostatic and hydrodynamic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for satisfying this requirement shall meet or exceed the following requirements:
 - a. A minimum of two openings on opposite walls having a total open area of not less than one 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 one foot above grade; and
 - c. Openings may be equipped with screens, louvers or other coverings or devices if they permit the unrestricted entry and exit of floodwaters;
3. Materials and methods which are resistant to and minimize flood damage shall be used; and
4. All electrical, heating, ventilation, plumbing, air conditioning equipment and other utility and service facilities shall be floodproofed to or elevated above the *flood protection elevation*.

E. New nonresidential *structures* and *substantial improvements* of existing nonresidential *structures* shall meet the following requirements:

1. The elevation requirement for residential *structures* contained in subsection (D)(1) of this section shall be met; or
2. The *structure* shall be floodproofed to the *flood protection elevation* and shall meet the following requirements:
 - a. The *applicant* shall provide certification by a professional civil or structural engineer licensed by the State of Washington that the *floodproofing* methods are adequate to withstand the flood depths, pressures, velocities, impacts, uplift forces and other factors associated with the *base flood*. After construction, the engineer shall certify that the permitted work conforms with the approved plans and specifications; and
 - b. Approved building permits for floodproofed nonresidential *structures* shall contain a statement notifying *applicants* that flood insurance premiums shall be based upon rates for *structures* which are one foot below the floodproofed level;
3. Materials and methods which are resistant to and minimize flood damage shall be used; and
4. All electrical, heating, ventilation, plumbing, air conditioning equipment and other utility and service facilities shall be floodproofed to or elevated above the *flood protection elevation*.

F. All new construction shall be anchored to prevent flotation, collapse or lateral movement of the *structure*.

G. *Mobile homes* and *mobile home parks* shall meet the following requirements:

1. *Mobile homes* shall meet all requirements for flood hazard protection for residential *structures*, shall be anchored and shall be installed using methods and practices which minimize flood damage; and

2. No permit or approval for the following shall be granted unless all *mobile homes* within the *mobile home park* meet the requirements for flood hazard protection for residential *structures*:

- a. A new *mobile home park*;
- b. An expansion of an existing *mobile home park*; or
- c. Any repair or reconstruction of *streets*, utilities or pads in an existing *mobile home park* which equals or exceeds 50 percent of the value of such *streets*, utilities or pads.

H. Utilities shall meet the following requirements:

- 1. New and replacement utilities including, but not limited to, sewage treatment facilities shall be floodproofed to or elevated above the *flood protection elevation*;
- 2. New on-site sewage disposal systems shall be, to the extent possible, located outside the limits of the *base flood elevation*. The installation of new on-site sewage disposal systems in the *flood fringe* may be allowed if no feasible alternative *site* is available;
- 3. Sewage and agricultural waste storage facilities shall be floodproofed to the *flood protection elevation*;
- 4. Above-ground utility transmission lines, other than electric transmission lines, shall only be allowed for the transport of nonhazardous substances; and
- 5. Buried utility transmission lines transporting *hazardous substances* shall be buried at a minimum depth of four feet below the maximum depth of scour for the *base flood*, as predicted by a professional civil engineer licensed by the State of Washington, and shall achieve sufficient negative buoyancy so that any potential for flotation or upward migration is eliminated.

I. *Critical facilities* may be allowed within the *flood fringe* of the *floodplain*, but only when no feasible alternative *site* is available. *Critical facilities* shall be evaluated through the *conditional* or *special use permit* process. *Critical facilities* constructed within the *flood fringe* shall have the lowest floor elevated to three or more feet above the *base flood elevation*. *Floodproofing* and sealing measures shall be taken to ensure that *hazardous substances* will not be displaced by or released into floodwaters. Access routes elevated to or above the *base flood elevation* shall be provided to all *critical facilities* from the nearest maintained public *street* or roadway.

J. Prior to approving any permit for alterations in the *flood fringe*, the *City* shall determine that all permits required by State or federal law have been obtained. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.720 Zero-rise floodway – Development standards and permitted alterations.

A. The requirements which apply to the *flood fringe* shall also apply to the *zero-rise floodway*. The more restrictive requirements shall apply where there is a conflict.

B. A *development proposal* including, but not limited to, new or reconstructed *structures* shall not cause any increase in the *base flood elevation* unless the following requirements are met:

1. Amendments to the *flood insurance rate map* are adopted by FEMA, in accordance with 44 CFR 70, to incorporate the increase in the *base flood elevation*; and
 2. Appropriate legal documents are prepared in which all property owners affected by the increased flood elevations consent to the impacts on their property. These documents shall be filed with the title of record for the affected properties.
- C. The following are presumed to produce no increase in *base flood elevation* and shall not require a special study to establish this fact:
1. New residential *structures* outside the *FEMA floodway* on *lots* in existence before November 27, 1990, which contain less than 5,000 square feet of buildable land outside the *zero-rise floodway* and which have a total building footprint of all proposed *structures* on the lot of less than 2,000 square feet;
 2. *Substantial improvements* of existing residential *structures* in the *zero-rise floodway*, but outside the *FEMA floodway*, where the footprint is not increased; or
 3. *Substantial improvements* of existing residential *structures* meeting the requirements for new residential *structures* in KMC 18.55.710.
- D. Post or piling construction techniques which permit water flow beneath a *structure* shall be used.
- E. All temporary *structures* or substances hazardous to public health, safety and welfare, except for *hazardous household substances* or consumer products containing *hazardous substances*, shall be removed from the *zero-rise floodway* during the flood season from September 30th to May 1st.
- F. New residential *structures* or any *structure* accessory to a residential use shall meet the following requirements:
1. The *structures* shall be outside the *FEMA floodway*; and
 2. The *structures* shall be on *lots* in existence before November 27, 1990, which contain less than 5,000 square feet of buildable land outside the *zero-rise floodway*.
- G. Utilities may be allowed within the *zero-rise floodway* if the *City* determines that no feasible alternative *site* is available, subject to the following requirements:
1. Installation of new on-site sewage disposal systems shall be prohibited unless a waiver is granted by Seattle/King County public health; and
 2. Construction of sewage treatment facilities shall be prohibited.
- H. *Critical facilities* shall not be allowed within the *zero-rise floodway* except as provided in subsection J of this section.
- I. Livestock manure storage facilities and associated nonpoint source water pollution facilities designed, constructed and maintained to the standards of and approved in a conservation plan by the *City* may be allowed if the *City* reviews and approves the location and design of the facilities.
- J. *Structures* and installations which are dependent upon the floodway may be located in the floodway if the *development proposal* is approved by all agencies with jurisdiction. Such *structures* include, but are not limited to:

1. Dams or diversions for water supply, flood control, hydroelectric production, irrigation or fisheries enhancement;
2. Flood damage reduction facilities, such as levees and pumping stations;
3. Stream bank stabilization structures where no feasible alternative exists for protecting public or private property;
4. Stormwater conveyance facilities subject to the development standards for *streams* and *wetlands* and the surface water design manual;
5. *Boat launches* and related recreation structures;
6. Bridge piers and abutments; and
7. Other fisheries enhancement or stream restoration projects. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.730 FEMA floodway – Development standards and permitted alterations.

- A. The requirements which apply to the *zero-rise floodway* shall also apply to the *FEMA floodway*. The more restrictive requirements shall apply where there is a conflict.
- B. A *development proposal* including, but not limited to, new or reconstructed *structures* shall not cause any increase in the *base flood elevation*.
- C. New residential or nonresidential *structures* are prohibited within the *FEMA floodway*.
- D. *Substantial improvements* of existing residential *structures* in the *FEMA floodway*, meeting the requirements of WAC [173-158-070](#), as amended, are presumed to produce no increase in *base flood elevation* and shall not require a special study to establish this fact. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.740 Flood hazard areas – Certification by engineer or surveyor.

- A. For all new *structures* or *substantial improvements* in a *flood hazard area*, the *applicant* shall provide certification by a professional civil engineer or land surveyor licensed by the State of Washington of:
1. The actual as-built elevation of the lowest floor, including *basement*; and
 2. The actual as-built elevation to which the *structure* is floodproofed, if applicable.
- B. The engineer or surveyor shall indicate if the *structure* has a *basement*.
- C. The *City* shall maintain the certifications required by this section for public inspection. [Ord. 11-0329 § 3 (Exh. 1).]

18.55.750 Channel relocation and stream meander areas.

No *structure* shall be allowed which would be at risk due to channel relocation or stream meander until the promulgation of a public rule. [Ord. 11-0329 § 3 (Exh. 1).]

[Mobile Version](#)

NATURAL ENVIRONMENT SUB-ELEMENT

INTRODUCTION

Natural systems play an important part in defining the character of the City of Kenmore. The different waterways provide recreational opportunities as well as visual amenities for the community. Some of the smaller, unnamed creeks perform an important role in surface water management by channeling runoff from impervious surfaces to the Sammamish River and/or Lake Washington. Streams and wetlands provide habitat for fish and wildlife and the tree-covered hillsides protect the slopes from erosional processes while also providing habitat. Future development will impact the natural systems and should be carefully reviewed to prevent undue adverse impacts that would lead to degradation of critical areas and to property damage.

Purpose

The purpose of the Natural Environment Sub-Element is to clarify the relationship between the natural environment and the built environment and to secure a balanced approach to future development. Sensitive areas such as wetlands, open spaces, fish and wildlife habitat contain much of the natural wealth valued by City residents. Other sensitive areas, such as land prone to flooding and geologically hazardous areas are important because of the risk to lives and property posed by developing them.

Growth Management Act Requirements

Under the Growth Management Act (GMA) all jurisdictions are required to protect and enhance the natural ecosystems through comprehensive plans and policies, and to develop regulations that reflect natural constraints and protect sensitive features. Land use and development is to be regulated in a manner that respects fish and wildlife habitat in conjunction with natural features and functions, including air and water quality. Natural resources and the built environment are to be managed to protect, improve and sustain environmental quality. Local waterways are to be managed for multiple beneficial uses, including flood and erosion hazard reduction, fish and wildlife habitat, agriculture, open space, water supply, and hydropower. Use of water resources for one purpose should, to the fullest extent possible, preserve and promote opportunities for other uses.

Countywide Planning Policies

The King County Countywide Planning Policies (CPP) seek to restore the quality of the natural environment and to protect it for future generations. The policies require all jurisdictions to manage natural drainage systems to improve water quality and habitat functions, minimize erosion and sedimentation, protect public health, reduce flood risks, and moderate peak storm water runoff rates. Jurisdictions in shared basins are to coordinate approaches and standards. Jurisdictions also are directed to encourage low impact development approaches and to plan for land use patterns and transportation systems that minimize air pollution and greenhouse gas emissions.

All jurisdictions are to collaborate with the Puget Sound Partnership to implement the Puget Sound Action Agenda for the benefit of Puget Sound and its watersheds.

EXISTING CONDITIONS

Geology

Much of the City of Kenmore is comprised of undulating uplands formed as a result of different glacial depositional processes. Stream erosion, subsequent to glaciation, carved gullies and ravines in the uplands. Drift plains and alternating valleys create a north-south trending “ridge and valley” regional topography, with one major east-west lowland bisecting Kenmore – the Sammamish River Valley where the river empties into Lake Washington. The general topography of Kenmore is varied, ranging from hills up to 500 feet in elevation to the Lake Washington shoreline at 20 feet above sea level.

The Vashon glaciation left a layer of till and recessional sand and gravel deposits that mantle the upland plateaus north and east of Lake Washington. The till and recessional deposits overlie Vashon outwash sand and gravel, and older glacial and nonglacial deposits that overlie bedrock at great depths.

The Vashon and older deposits in the Kenmore area form a sequence of sand and gravel layers separated by finer grained layers of clay and silt or tight, well-graded soils, which are exposed in places along the steep slopes that lie between the upland plateaus and the lowland drainages. The Vashon and older deposits comprise several aquifers and aquitards within the subsurface, which control subsurface water movement from the upland to the lowland as well as to the locations of streams and creeks that occupy former outwash channels.

Lodgment till from the Vashon glaciation mantles much of the upland area but is generally absent from the steeper slopes at the edge of uplands and in the lowland. Lodgment till is an unsorted mixture of sand, gravel, silt, and clay deposited at the base of a glacier that has been compacted to a very dense state by the great weight of the overriding ice. This type of till has very low permeability and typically acts as an aquitard, restricting the downward flow of groundwater and reducing recharge of deeper aquifers. Till occurs at or very near the ground surface in the higher elevations of the watershed where north-south ridges and swales left by the passage of glacial ice cross the upland surface.

The ground surface along the upland margins and within former large outwash channels is underlain by a veneer of recessional outwash and ice contact deposits. Ice contact deposits were deposited during stagnation and melting of the ice sheet. These deposits consist of sand and gravel, similar to recessional outwash, but are more variable and often contain lenses of very silty material, till, and lacustrine silt and clay, which impede infiltration and groundwater flow.

Recent, unconsolidated deposits of alluvium, organic-rich deposits, and fill overlie the Vashon glacial soils. Recent alluvium, consisting of sand and gravel with interbeds of organic silt, peat and silty clay, exists within the floodplains of the Sammamish River and Swamp Creek. In general, the recent alluvium is poorly drained and associated with hydric soil conditions.

Geologic Hazards

Geologic hazard areas in Kenmore include lands with erosion, landslide, and seismic hazards. Erosion hazard areas, identified on the City’s Geologic Hazard Areas map, occur along the northwest City limits, along 61st Avenue NE, land south of NE 170th Street, and along the shoreline in the Inglewood neighborhood and St. Edward State Park.

The identification of areas susceptible to landsliding is necessary in the assessment of grading, building, foundation design, housing density, and other land development regulations. Steeply sloping unconsolidated glacial deposits are highly susceptible to landslides. Landslide hazard areas are found

along 61st Avenue NE, the area south of NE 170th Street, and the Inglewood/St. Edward State Park area along Lake Washington.

Seismic hazard areas are those areas subject to severe risk of earthquake damage as a result of seismically induced settlement or soil liquefaction. The City's Geologic Hazard Areas map identifies the region of Swamp Creek, the Sammamish River basin and the northern end of Lake Washington north of NE 166th Place as a seismic hazard area primarily due to the potential of soil liquefaction during times of seismic activity. Refer to **Figure LU-11** for the map indicating geologic hazard areas in Kenmore.

Air Quality

Air quality is generally assessed in terms of concentrations of air-borne pollutants being higher or lower than ambient air quality standards set to protect human health and welfare. To measure existing air quality, the Washington State Department of Ecology and the Puget Sound Clean Air Agency (PSCAA) maintain a network of monitoring stations throughout the Puget Sound region. Based on monitoring information collected over time, state (Ecology) and federal (EPA) agencies designate regions as being "attainment" or "nonattainment" areas for particulate air pollutants. Attainment is a measure of whether National Ambient Air Quality Standards (NAAQS) are being met.

King County was designated as a nonattainment area in 1989. This designation brought about maintenance measures to bring the area back into attainment. The county now meets air quality standards and has a long-term plan for continuing to meet and maintain these standards and other requirements of the Clean Air Act. The county presently is designated as a "maintenance area."

Future Conditions

Air quality in Kenmore is predicted to remain much as it is today or to improve slightly. This is based on continuation of the State vehicle emissions inspection and monitoring program and decreased dependence on wood as a primary heating source as newer houses replace older ones.

Additionally, implementation of zoning responsive to air quality concerns can result in air pollution benefits Countywide and regionally. Decreased air pollution can be expected from zoning and development patterns that result in a reduction in vehicle miles traveled. Concentrated development and higher density development allows transit to serve people more efficiently and generally reduces the number of cars on the road. Although regional or Countywide emissions can be reduced with efficient land use patterns, air pollutant emissions would still occur in more populated areas and may affect more people.



Figure LU-11

Water and Wetlands

Predominant water features in the City include Swamp Creek as well as its tributaries and associated wetlands, the Sammamish River, and Lake Washington. In addition to these major water bodies, numerous small unnamed streams drain to these features.

Numerous wetlands also are located in the City—many within public open spaces such as Wallace Swamp Creek Park, Squire’s Landing Park, and Inglemoor Wetlands. Wetlands are transitional areas between aquatic and upland habitats and are identified based upon three parameters: hydrology, soils and vegetation. Wetlands are formally identified and delineated in accordance with the approved federal wetland delineation manual and applicable regional supplements. Under normal circumstances, wetlands include the following three components:

- Presence of water (hydrology) or an indication of at least the seasonal presence of water;
- Unique soils (hydric soils) that differ from upland soils due to anaerobic conditions resulting from prolonged or frequent saturation or flooding; and
- A dominance of plants adapted to growing in wet conditions (hydrophytic vegetation).

Wetlands provide habitat for a variety of aquatic and terrestrial plant and animal species. The extent to which a wetland will provide wildlife habitat will depend upon several features including the condition of the site, its size, presence of habitat features (e.g. open water, dead snags, islands or perches), the variety and complexity of the different habitat types within the wetland, and the surrounding habitat in the immediate vicinity. The ability of a wetland to provide habitat can also be linked to the degree it has been fragmented by urbanization and the level of disruption of the hydrology and vegetative continuity with other wetland systems. See **Figure LU-11a** for a map of streams and wetlands in Kenmore.



Figure LU-11a

Swamp Creek

The main stem of Swamp Creek is approximately 14.6 miles long, extending from headwaters wetlands in south Everett, through portions of Everett, Lynnwood, Brier, Mountlake Terrace, Bothell, unincorporated Snohomish County, and Kenmore to the Sammamish River. Within the city of Kenmore, there are 2.5 miles of shoreline along the stream.

Swamp Creek is typical of Puget Sound lowland streams. It originates in upland areas with gently sloping hillsides and eventually flows through a broad valley to the mouth. Topography along the stream course varies from 450 feet above sea level at the headwaters to 20 feet above sea level at the mouth of the creek. The stream has a low to moderate gradient of 1 to 6 percent. Site and vegetation clearing and grading, increased impervious surfaces, inadequate storm detention and other factors, particularly with development in the watershed upstream from Kenmore, have increased flood frequencies and severity. Despite these changes, the Swamp Creek floodplain contains some of the largest and highest quality wetlands and wildlife habitat in the City. Swamp Creek has actively migrated within its floodplain.

Little Swamp Creek and Muck Creek join with Swamp Creek in Kenmore, along with a third, unnamed tributary.

Water quality issues include sedimentation and pollutants associated with stormwater runoff. Temperature and dissolved oxygen exceed the water quality standards for most of the summer and early fall. There also are frequent exceedances of the fecal coliform bacteria standard. Swamp Creek at the mouth has consistently scored low on the King County Water Quality Index—rating it as a “high concern.”

To capture gravels and sediments, an in-stream sediment pond was created and is maintained in Wallace Swamp Creek Park.

Fish Habitat

Swamp Creek supports several salmonid fish species including coho salmon (federal species of concern), Chinook salmon (federally listed, threatened), coastal cutthroat trout (sea-run and resident), sockeye salmon, and steelhead (federally listed, threatened). Resident cutthroat trout are the dominant salmon species that spawn in the Swamp Creek basin. Swamp Creek also supports coho spawning and Little Swamp Creek is documented to support coho rearing. There is no designated critical habitat for any salmonid species in Swamp Creek or its tributaries.

Wildlife Habitat

Wildlife species are concentrated in small forested and wetland areas of the Swamp Creek watershed. Swamp Creek Wetland #3 (Listed in the King County [Sensitive Areas Map Folio](#); see **Figure LU-11a**) provides excellent forage and nesting habitat for birds and good forage and shelter habitat for amphibians, reptiles and small mammals. Ponded areas in the wetland provide resting sites for waterfowl. Of particular interest in Wetland #3 is the Great Blue Heron rookery, described further below.

Purple martin nest boxes (state priority species) are mapped at the Swamp Creek confluence.

Sammamish River

The Sammamish River begins at the outlet of Lake Sammamish and ends at its confluence with Lake Washington. The total length of the river mainstem is approximately 14 miles. Within the City limits, the shoreline extends approximately 1.8 miles. The river has a low gradient (approximately 0.02%), dropping only 14' in elevation over its length. The volume and rate of surface water discharge from Lake Sammamish is moderated by a weir at Marymoor Park.

The River has been altered over time to control flooding. The natural Sammamish River floodplain historically covered a very large area as the river meandered extensively across the valley floor. Prior to channelization, land use in the valley was predominately agricultural and spring flooding regularly caused extensive damage to seed crops. To reduce this damage and to help regulate the level of Lake Sammamish, the U.S. Army Corps of Engineers, with King County as a local sponsor, dredged a deeper and straighter channel in the 1960s, filling in the former meanders. Levees were typically placed on the riverbanks to maximize the flood protection area. Miles of streambank were lined with rip-rap and are devoid of vegetation. In the 1980s and 1990s, dredging at the mouth of the river was undertaken for navigational purposes.

Consequences of the flood control projects include reduced frequency of overbank flooding, reduced riparian habitat, and elimination of extensive wetland areas. In Kenmore, approximately 35.3 acres of wetlands are mapped on the Sammamish River shoreline. The City has undertaken community restoration efforts to control invasive plants and replant native species in portions of the Rhododendron Park wetlands, portions of Squire's Landing Park wetlands, and in wetlands near the Wildcliffe Shores community.

The water quality of the Sammamish River is largely influenced by the slow moving nature of this lowland system and by the backwater effect from Lake Washington. The slow movement, while enhancing sediment deposition, also allows for development of dense stands of aquatic plants and higher algal productivity. The backwater affect means that warmer lake water with lower dissolved oxygen concentrations is significantly influencing the conditions in the lower reach of the river, especially during summer months. Temperatures are limiting for salmon. Fecal coliform bacteria and various pollutants are additional water quality issues.

The King County Water Quality Index rates the River at the Kenmore monitoring station as "of high concern with respect to water quality."

Fish Habitat

The Sammamish River remains a major migratory pathway for salmon. The mouth of the River provides salmon rearing habitat and it is believed that outmigrating juvenile salmon may hold in the shallow beach area near the river mouth before moving into the lake. The basin supports rainbow trout, coho salmon (federal species of concern), Chinook salmon (federally listed, threatened), coastal cutthroat trout, kokanee, sockeye salmon, and steelhead (federally listed, threatened).

Wildlife Habitat

Historically, the Sammamish River with its broad, shallow channels and numerous backwater sloughs and meanders provided prime habitat for a wide variety of animal species. This diversity of wildlife has been reduced and birds are the most visible form of wildlife along the river. Bald eagles, other raptors and cormorants have been observed flying along the River and great blue herons feed there.

Lake Washington

Lake Washington has a surface area of approximately 35 square miles. Kenmore's shoreline along the north end of Lake Washington is approximately 3.5 miles in length. The shoreline has little natural vegetation or habitat left due to urbanization. An exception is the waterfront along St. Edward State Park, which is roughly 3,000 feet in length and the longest undeveloped stretch of Lake Washington shoreline.

Construction of the Ship Canal in 1916 created the connection between Lake Washington and Puget Sound, causing the lake water surface elevation to drop approximately 9 feet. Currently the U.S. Army Corps of Engineers maintains the water level in the Lake within a 2-foot range between 20 and 22 feet. The minimum water elevation is maintained during winter to allow for annual maintenance of docks and other structures, minimize damage during winter storms, and provide flood storage volume.

Water quality in Lake Washington is a tremendous improvement from just 50 years ago. However, a continued concern is localized areas of eutrophication, wherein nutrients (particularly phosphorus) and bacteria from the watershed are transported to the lake, resulting in excessive plant growth including floating and attached algae and nuisance plants. Water quality concerns around increased water temperature, fecal coliform bacteria and chemical contaminants also are present.

Fish Habitat

Lake Washington supports over 30 fish species of which 12 are non-native and introduced to the lake. Native species of salmonids use the lake for migratory passage, rearing of juveniles, and foraging. No salmonid spawning typically occurs in Lake Washington. Salmonid species include Chinook (federally listed, threatened), coho (federal species of concern), sockeye, steelhead (federally listed, threatened), resident rainbow trout, cutthroat trout, Dolly Varden/bull trout (federally listed, threatened) and kokanee.

Wildlife Habitat

Mapped bald eagle nest sites are located on the east shore of Lake Washington and documented perch trees, including large black cottonwoods, are located along the lakeshore. Pileated woodpecker breeding (state candidate species) occurs in the forests of St. Edward State Park. Other priority habitats associated with the lake include wetlands and riparian areas.

Endangered, Threatened, Sensitive Species

Federally Listed Species

Several federally listed species are known to occur or could potentially occur within the City's shorelines. Federally listed species that have been documented include Chinook salmon, bull trout, and steelhead. In 2005, the National Oceanic and Atmospheric Administration National Marine Fisheries Division designated "critical habitat" in the region, which is protected as essential to the conservation of listed salmon. Critical habitat for Puget Sound Chinook salmon includes the entire Lake Washington shoreline, including shoreline in Kenmore, and the lower portion of the Sammamish River.

In 2004, the U.S. Fish and Wildlife Service designated "critical habitat" for the Puget Sound Distinct Population Segment (DPS) of bull trout. The entire length of the Lake Washington shoreline, including areas within Kenmore, was designated as critical habitat for bull trout.

In 2007, NOAA Fisheries listed Puget Sound DPS steelhead as "threatened." Designation of potential critical habitat is underway.

State Priority Habitat and Species Program

The State of Washington Department of Fish and Wildlife has a Priority Habitat and Species (PHS) Program which includes a catalog of habitats and species considered to be priorities for both conservation and management. The State lists designate *State Endangered*, *Threatened*, *Sensitive*, and *Candidate Species*. Priority species documented in Kenmore include Chinook salmon, bull trout, coho salmon, sockeye, kokanee, steelhead, coastal cutthroat, bald eagle, pileated woodpecker, and great blue heron. Due to the importance and size of the colony, the great blue heron species is addressed below.

Great Blue Heron

Great blue herons are a permanent resident in all of Washington except the higher Cascade and Olympic ranges. They are highly vulnerable to human disturbance, predation, and competition for nesting habitat.

More productive colonies tend to form near large areas of high quality foraging habitat. Most colonies are within 1.9 miles of key foraging grounds, although herons can nest anywhere within 6.2 miles of where they are foraging.

Ideal nesting habitat consists of mature forest. Although most colonies are found in forests free of human disturbance, some nesting occurs in areas of persistent human activity. The birds are less tolerant of disturbance in the pre-courtship and courtship periods between mid-February and mid-April.

Bald eagles are the heron's primary predator.

A heron rookery has been established near the north end of the Kenmore Park and Ride, within Swamp Creek wetlands. It housed approximately 40 nesting pairs in 2009.

The colony established itself after the Kenmore Park and Ride lot was developed. There is a water barrier between the lot and the colony which may create a sense of safety. Other than encroaching development, factors which may cause the birds to move in the future include bald eagle intrusion, damage to nesting trees (trees can be damaged by the nesting as well as by flooding), reduction in foraging areas, and other factors (Norman 1999).

The birds are colonial during the breeding season but are noncolonial in the winter when they stay in the immediate area but separate into smaller groups. The winter roosting areas have not been identified. In winter, the birds will switch from foraging in wetland areas to upland areas where they will feed, for example, on rodents (Norman 1999).

Colonies usually exist at the same location for many years, and productivity (the number of fledglings/nesting herons) may be positively related to the number of years colonies have been in use. The herons may relocate their colonies in response to increased predation on eggs and young by mammals and birds such as eagles, declines in food availability, or human disturbance (State of Washington Department of Fish and Wildlife 1999).

The City of Kenmore's Critical Area Regulations require a buffer of 900 feet radius around an active rookery. Between January 1 and July 31, no clearing or grading or land disturbing activity is allowed within 900 feet of the rookery unless approved by the Washington State Department of Fish and Wildlife (the SR-522 right of way is exempt from the buffer). Permits for activities within the heron rookery buffer require approval of a habitat management plan by the State and City.

Shoreline Master Program

The Shoreline Master Program applies to “shorelines of the State.” In Kenmore, these include Lake Washington, the Sammamish River, and the main stem of Swamp Creek. In addition, wetlands considered “associated” with State Shorelines, such as Swamp Creek No. 3, also are regulated by the Shoreline Master Program. The Shoreline Master Program regulations include Environment designations of Downtown Waterfront, Shoreline Residential, Urban Conservancy, and Natural. The Downtown Waterfront environment is more permissive in terms of uses and development standards than the other designations. The most restrictive Environment is the Natural Environment. The Shoreline Sub-Element of the Land Use Element addresses shoreline goals, objectives and policies.

GOALS, OBJECTIVES, AND POLICIES

Following are the natural environment goals, objectives and policies. In some cases, policies are cross-referenced in more than one Element or Sub-Element, and this is noted by a policy reference in italics (e.g., *Policy SW-42.3.1*).

GOAL 13. *PRACTICE ENVIRONMENTAL STEWARDSHIP BY PROTECTING, ENHANCING, AND PROMOTING THE NATURAL ENVIRONMENT IN AND AROUND THE CITY OF KENMORE.*

OBJECTIVE 13.1 Cooperate regionally and strive locally to improve air quality.

Policy LU-13.1.1 Protect air quality from adverse impacts through the following measures:

- a. Encourage alternative modes of transportation to reduce reliance on the automobile as the primary method of transportation.
- b. Promote mixed-use and compact development forms, particularly in the Downtown, to help reduce the need for automobile use.
- c. Require air quality impact analysis for major new developments, which could adversely impact the air quality levels in the vicinity.
- d. Work with other agencies to educate the public about air quality impacts due to vehicular travel and due to improper use of woodstoves and fireplaces.
- e. Work with other agencies to monitor air quality within the planning area.

Policy LU-13.1.2 Through development standards, reduce air pollution emissions from construction and land clearing activities.

OBJECTIVE 13.2 Encourage a reduction in overall noise levels throughout the community.

Policy LU-13.2.1 Require new developments which could generate substantial levels of noise or could expose people to substantial levels of noise from existing noise generators to submit an analysis of potential noise impacts and propose mitigation.

- Policy LU-13.2.2 Implement noise and nuisance ordinances to address various noise sources and require cessation or mitigation of noise.
- Policy LU-13.2.3 Encourage residential or other noise-sensitive development proposed for location in noise-impacted areas to be oriented away from noise source, or to be constructed with materials that will maximize noise reductions, or to incorporate fencing, landscaping, or other noise-reducing features, appropriate to the situation. Noise impacted areas may include the vicinity of SR-522, or the vicinity of the Air Harbor, or other areas that may be determined through environmental review.
- OBJECTIVE 13.3 Encourage a reduction in light and glare impacts throughout the community.**
- Policy LU-13.3.1 Through design standards or educational opportunities, discourage the use of building materials or signage materials that cause glare impacts to substantial numbers of motorists or surrounding neighborhoods.
- Policy LU-13.3.2 Require appropriate illumination levels and light shields, and direction for lighting standards along streets, and in public open spaces and parks.
- Policy LU-13.3.3 Encourage residents to provide exterior lighting for security purposes which does not unduly impact their neighbors.
- Policy LU-13.3.4 Restrict lights pointing up, affecting the view of the night sky.
- OBJECTIVE 13.4 Cooperate regionally and strive locally to protect surface and ground water quality and quantity from degradation.**
- Policy LU-13.4.1 Actively work with communities upstream from Kenmore to develop and implement appropriate surface water regulations to adequately retain and detain surface water so as to minimize the adverse effects upon the environment in Kenmore.
- Policy LU-13.4.2 Use incentives, regulations and programs to manage Kenmore's water resources (rivers, streams, lakes, wetlands and ground water) and to protect and enhance their multiple beneficial uses including fish and wildlife habitat, flood and erosion control, water supply, energy production, transportation, recreational opportunities and scenic beauty. Use of water resources for one purpose should, to the fullest extent practicable, preserve opportunities for other uses.
- Policy LU-13.4.3 Allow development that supports continued ecological and hydrologic functioning of water resources. Development should not have a significant adverse impact on water quality or water quantity.
- Policy LU-13.4.4 Participate in the development of watershed plans integrating surface water, ground water, drinking water and wastewater planning to provide efficient water resource management.
- OBJECTIVE 13.5 Adopt an urban forestry strategy to encourage the preservation and planting of trees on public and private property.**

Policy LU-13.5.1 Adopt an urban forestry strategy which encourages the preservation and protection of trees on public and private properties.

Policy LU-13.5.2 Through urban forestry, street design standards and parks programs, encourage the planting of street trees throughout the City.

OBJECTIVE 13.6 Protect the natural, environmental, ecological, public access, aesthetic, and economic aspects of Lake Washington, the Sammamish River, and Swamp Creek.

Policy LU-13.6.1 In the City's Shoreline Element and Shoreline Master Program, balance the need to provide for shoreline protection, and public access, with the need to allow for water-oriented uses and economic development.

Policy LU-13.6.2 Allow development within designated Shoreline Environments that preserves the resources and ecology of the water and shorelines, avoids natural hazards, promotes visual and physical access to the water and preserves archeological resources, traditional cultural resources, and navigation rights. Protection of critical areas should be balanced with visual values and physical access as long as there is no net adverse impact to regulated shoreline ecological processes and functions.

Policy LU-13.6.3 Balance private property rights with the need for public physical and visual access to shorelines.

GOAL 14. PROTECT LIFE AND PROPERTY IN AREAS OF NATURAL HAZARDS.

OBJECTIVE 14.1 Strive to protect lives and public and private property from flooding.

Policy LU-14.1.1 Implement the Surface Water Element goals, objectives and policies and the Kenmore Surface Water Management Plan to minimize flood hazards in the community.

Policy LU-14.1.2 Recognize the Swamp Creek basin as an environmentally sensitive area that has sustained repeated flooding impacts. Densities and services should reflect the environmental sensitivity of the Swamp Creek basin.

OBJECTIVE 14.2 Strive to protect slopes from erosion and sliding.

Policy LU-14.2.1 Require land uses permitted in mapped Erosion Hazard Areas to minimize soil disturbance and maximize retention and replacement of native vegetative cover.

Policy LU-14.2.2 Require new development to protect natural vegetation coverage at levels sufficient to moderate surface water runoff and erosion and to protect the integrity of stream channels. When revegetation is required, appropriate native vegetation should be used.

Policy LU-14.2.3 Require grading and construction activities to be conducted with erosion control Best Management Practices and other development controls as necessary to reduce sediment discharge from construction sites to minimal levels.

- Policy LU-14.2.4 Require increased surface water requirements in areas draining over steep and erosive slopes.
- Policy LU-14.2.5 Limit development on slopes with a grade of 40 percent or more to be developed unless the risks and adverse impacts associated with such development can be reduced to a non-significant level.
- Policy LU-14.2.6 Limit development in Landslide Hazard Areas unless the risks and adverse impacts associated with such development can be reduced to a non-significant level.

OBJECTIVE 14.3 Minimize the potential for damage due to liquefaction and seismic hazards.

- Policy LU-14.3.1 In areas with severe seismic hazards, apply Uniform Building Code, and any other necessary special building design and construction measures to minimize the risk of structural damage, fire and injury to occupants and to prevent post-seismic collapse.

GOAL 15. *PROTECT AND ENHANCE UNIQUE, VALUABLE, AND CRITICAL PLANTS AND WILDLIFE.*

OBJECTIVE 15.1 Protect wetlands from encroachment and degradation, and encourage wetland restoration.

- Policy LU-15.1.1 Determine wetland boundaries in accordance with the approved federal wetland delineation manual and applicable regional supplements.
- Policy LU-15.1.2 Provide a classification system for wetlands that allows for the designation of both regionally and locally unique wetlands.
- Policy LU-15.1.3 Strive to achieve no-net-loss of wetland functions or values within each drainage basin. Acquisition, enhancement, regulations, and incentive programs may be used independently or in combination with one another to protect and enhance wetlands functions.
- Policy LU-15.1.4 Require development adjacent to wetlands to be sited such that wetland functions are protected, an adequate buffer around the wetlands is provided, and significant adverse impacts to wetlands are prevented.
- Policy LU-15.1.5 Protect areas of native vegetation that connect wetland systems. Whenever effective, incentive programs such as buffer averaging, density credit transfers, or appropriate non-regulatory mechanisms should be used.
- Policy LU-15.1.6 Protect the unique hydrologic cycles, soil and water chemistries, and vegetation communities of bogs, fens and other legislatively designated unique through the use of Best Management Practices to control and/or treat stormwater within the wetland watershed.
- Policy LU-15.1.7 Allow public access to wetlands for scientific, recreational use, and traditional cultural use where public access trails are carefully sited, sensitive habitats and species are protected, and hydrologic continuity is maintained.

- Policy LU-15.1.8 Allow enhancement or restoration of degraded wetlands to maintain or improve wetland functions, provided that all wetland functions are evaluated in a wetland management plan, and adequate monitoring, code enforcement and evaluation is provided and assured by responsible parties. Restoration or enhancement must result in a net improvement to the functions of the wetland system. Technical assistance to small property owners should be considered.
- Policy LU-15.1.9 Alterations to wetlands may be allowed, only after all wetland functions are evaluated, the least harmful and reasonable alternatives are identified, and affected significant functions are appropriately mitigated, in order to:
- a. Accomplish a public agency or utility development;
 - b. Provide necessary utility and road crossings;
 - c. Maintain and improve a wetland; or,
 - d. Avoid a denial of all reasonable use of the property.
- Policy LU-15.1.10 Approve wetland mitigation proposals if they would result in improved overall wetland functions within a drainage basin. All wetland functions should be considered. Ensure mitigation sites replace or augment the functions that would be lost as a result of the project proposal. Further, mitigation sites should be located strategically to alleviate habitat fragmentation.
- Policy LU-15.1.11 Promote mitigation projects that contribute to an existing wetland system or restore an area that was historically a wetland. The goal for these mitigation projects is no net loss of wetland functions per drainage basin.
- Policy LU-15.1.12 Preserve land used for wetland mitigation in perpetuity. Monitoring and maintenance should be provided until the success of the site is established.
- Policy LU-15.1.13 Support a cooperative multi-jurisdictional effort to develop a plan for the establishment of a wetland mitigation banking program.
- Policy LU-15.1.14 Apply appropriate penalties for current as well as previous wetland alteration violations, such as requiring wetland restoration, through code enforcement and stricter standards for development on sites where wetlands have been illegally filled.
- OBJECTIVE 15.2 Protect streams from encroachment and degradation, and encourage stream restoration.**
- Policy LU-15.2.1 River and stream channels should be preserved, protected and enhanced for their hydraulic, ecological and aesthetic functions.
- Policy LU-15.2.2 In partnership with other jurisdictions and interested parties, continue restoring stream and river channels and surrounding riparian areas to enhance water quality and fish and wildlife habitat and to mitigate flooding and erosion.
- OBJECTIVE 15.3 Maintain and promote a diversity of native species and habitat within the City.**

- Policy LU-15.3.1 Protect native plant communities by encouraging management and control of non-native invasive plants, including aquatic plants. Environmentally sound methods of vegetation control should be used to control noxious weeds.
- Policy LU-15.3.2 Actively encourage the use of environmentally safe methods of vegetation control. Herbicide use should be minimized.
- Policy LU-15.3.3 Recognize that aquatic weeds and toxic algae are a regional issue. Lobby King County to take the lead on a solution to control aquatic weeds and algae on the Sammamish River, Swamp Creek and Lake Washington. At the same time, facilitate the use of local resources, including volunteers, to reduce aquatic weeds.
- Policy LU-15.3.4 Encourage the use of native plants in landscaping requirements, erosion control projects, and in the restoration of stream banks, lakes, shorelines, and wetlands. Provide incentives for using native plants, mature plantings, and higher densities of biomass.
- Policy LU-15.3.5 Maintain fish and wildlife through conservation and enhancement of terrestrial, air, and aquatic habitats.
- Policy LU-15.3.6 Preserve habitats for species which have been identified as endangered, threatened, or sensitive by the state or federal government.
- Policy LU-15.3.7 Designate and protect the following Fish and Wildlife Habitat Conservation Areas found in Kenmore:
- a. Habitat for federal or state listed Endangered, or Threatened species;
 - b. Habitat for State Sensitive, and Candidate species; animal aggregations considered vulnerable; and those species of recreational, commercial, or tribal importance that are vulnerable as identified in the State Priority Habitats and Species List.
 - c. Habitat for Herons of Local Importance: great blue heron;
 - d. Urban natural open spaces designated in the Priority Habitat and Species Project by the State Department of Fish and Wildlife; and,
 - e. Riparian corridors.
- Policy LU-15.3.8 Conduct a local process to determine fish, wildlife, and plant species of local importance, and address these in Policy LU-15.3.7.
- Policy LU-15.3.9 Identify species which need protection during the development review process.
- Policy LU-15.3.10 Stream and wetland buffer requirements may be increased to protect Endangered, Threatened, and Priority wildlife species. Whenever possible, density transfers and/or buffer averaging should be allowed.
- Policy LU-15.3.11 Protect salmonid habitats by ensuring that land use and facility plans (transportation, water, sewer, electricity, gas) include riparian and stream habitat

conservation measures developed by the County, cities, tribes, service providers, and/or state and federal agencies. Development within basins that contain fish enhancement facilities should consider significant adverse impacts to those facilities.

- Policy LU-15.3.12 Work with adjacent jurisdictions, state and federal governments and tribes during land use plan development and site development review to identify and protect habitat networks at jurisdictional boundaries.
- Policy LU-15.3.13 Encourage incorporating native plant communities into development proposals.
- Policy LU-15.3.14 Integrate fish and wildlife habitats into capital improvement projects whenever feasible.
- Policy LU-15.3.15 Promote voluntary wildlife habitat enhancement projects by private individuals and businesses through educational and incentive programs.
- Policy LU-15.3.16 Actively participate in the Watershed Resource Inventory Area (WRIA) 8 Council to ensure that the City's planning, implementation, and enforcement efforts regarding surface and groundwater, environmentally sensitive areas, and development regulations are consistent with regional efforts. A central purpose of the watershed planning and implementation should be the recovery of endangered, threatened, or sensitive species such as the chinook salmon and bull trout.
- Policy LU-15.3.17 Regularly review the City's capital projects, and planning and regulatory efforts to ensure consistency with the Federal 4(d) rule.

IMPLEMENTATION STRATEGIES

The Natural Environment Sub-Element policies would require new, continuing or increased commitments of City resources to prepare new regulations, review/amend existing regulations, create educational or incentive programs, or coordinate with adjacent jurisdictions.

New programs, rules, or regulations would be needed to address:

- Air quality and noise analyses for major new developments
- Urban forestry strategies
- Habitat enhancement educational, volunteer and incentive programs
- Aquatic weed and algae control.

A review of existing programs, rules and regulations would be needed to ensure they meet the policies, including:

- Control of air emissions from construction and land clearing activities
- Erosion control Best Management Practices
- Increased surface water requirements on steep and erosive slopes

- Sufficiency of wetland, stream, fish and wildlife habitat, flood hazard, steep slope, landslide hazard, and erosion hazard regulations
- Sufficiency of design standards for building materials, critical area signage and lighting
- Sufficiency of noise standards
- Sufficiency of native vegetation requirements and tree management and protection requirements
- Sufficiency of aquatic weed prevention and invasive plant prevention
- Sufficiency of protection against pollutants, including fertilizer, entering streams, the River and the Lake.

Additional or continuing efforts would need to be made to coordinate with adjacent jurisdictions or participate in regional programs, including:

- Working with adjacent, upstream communities on water quality and flooding issues
- Participating in the development of watershed plans
- Working with King County and the Sammamish River cities to control aquatic weeds and algae on the Sammamish River and Lake Washington
- Establishing a wetland mitigation banking program
- Restoring stream channels.

REFERENCES

- Azerrad, J.M. (2012). Management Recommendations for Washington's Priority Habitats and Species: Great Blue Heron. Washington Department of Fish and Wildlife, Olympia, WA.
- ESA Adolfson (2009). Kenmore Shoreline Master Program Update: Inventory and Analysis. Seattle, WA.
- King County (December 1990). Sensitive Areas Map Folio. Seattle, WA.
- King County (1990). Wetlands Inventory. Seattle, WA.
- King County Growth Management Planning Council (December 2012). Countywide Planning Policies. Seattle, WA.
- Norman, Don (November 23, 1999). Personal Communication, phone call from Don Norman, consulting biologist to Lisa Grueter, Bucher, Willis & Ratliff Corporation.
- State of Washington, Department of Fish and Wildlife (1999). "Great Blue Herons" in the Management Recommendations for Washington's Priority Species, Volume IV: Birds. Authors Timothy Quinn and Ruth Milner. Olympia, WA.

**Title 16
ENVIRONMENT**

Chapters:

Division I. Shoreline Management

[16.05 Shoreline Management Code – Purpose and Scope](#)

[16.10 Definitions](#)

[16.15 Shoreline Environment Designations](#)

[16.20 Downtown Waterfront Environment](#)

[16.25 Shoreline Residential Environment](#)

[16.30 Urban Conservancy Environment](#)

[16.35 Natural Environment](#)

[16.40 Aquatic Environment](#)

[16.45 General Shoreline Development Standards](#)

[16.50 Shoreline Uses](#)

[16.55 Shoreline Modifications](#)

[16.60 Vegetation Conservation](#)

[16.65 Shoreline Density and Dimensions](#)

[16.70 Subdivisions](#)

[16.75 Procedures](#)

Division II. Flood Damage Prevention

16.90 Flood Damage Prevention

Chapter 16.05
SHORELINE MANAGEMENT CODE – PURPOSE AND SCOPE

Sections:

[16.05.010 Purpose.](#)

[16.05.020 Citation.](#)

[16.05.030 Scope.](#)

[16.05.050 Liberal construction.](#)

[16.05.060 Relationship to other Kenmore programs.](#)

[16.05.070 Severability.](#)

16.05.010 Purpose.

A. The purpose of this title is to implement the Shoreline Management Act of 1971 and to provide for the regulation of development which impacts those areas of the City of Kenmore under the jurisdiction of the Shoreline Management Act consistent with Chapter 173-26 WAC and the goals and policies of the City of Kenmore comprehensive plan shoreline subelement.

B. This title contains the regulations of the City of Kenmore Shoreline Master Program and the procedures to implement those regulations. These regulations and procedures are consistent with and implement the goals and policies of the City of Kenmore comprehensive plan shoreline subelement. [Ord. 12-0334 § 3 (Exh. 1).]

16.05.020 Citation.

This title shall be known as “the shoreline management code.” [Ord. 12-0334 § 3 (Exh. 1).]

16.05.030 Scope.

A. No development shall be undertaken by any person on the shorelines of the State unless such development is consistent with the provisions of this title and the goals and policies of the City of Kenmore comprehensive plan shoreline subelement.

B. Development prohibited by this title but otherwise permitted by the City of Kenmore land use controls is prohibited only within the shorelines of the State.

C. Development proposed on property adjacent to water bodies or wetlands under the jurisdiction of the Shoreline Management Act shall be evaluated in terms of the goals and policies of the City of Kenmore comprehensive plan shoreline subelement. [Ord. 12-0334 § 3 (Exh. 1).]

16.05.050 Liberal construction.

This title is exempted from the rule of strict construction and shall be liberally construed to give full effect to the purposes for which it was enacted. [Ord. 12-0334 § 3 (Exh. 1).]

16.05.060 Relationship to other Kenmore programs.

A. Kenmore shall issue no permit prior to approval pursuant to this title and shall take no action contrary to the goals, policies, and regulations of the City of Kenmore Shoreline Master Program when property under the jurisdiction of the Shoreline Management Act is involved in a request for a decision in any of the following programs:

1. Building permit;
2. Right-of-way construction permit;
3. Short subdivision approval;
4. Grading permit;
5. Site plan approval;
6. Access permit;
7. Trail permit;
8. State flood control zone permit;
9. Zoning variance;
10. Conditional use permit;
11. Comprehensive plan amendment or addition;
12. Zone reclassification;
13. Special use permit;
14. Subdivision approval;
15. Mobile home park permit;
16. Mobile home permit;
17. Recreational vehicle park permit; and
18. Site plan review permit.

B. The following sections of the Kenmore Municipal Code are adopted and incorporated by reference as part of the Shoreline Master Program¹:

1. Chapter 1.20 KMC – Code Enforcement.

The Kenmore Municipal Code is current through Ordinance 18-0458, passed January 22, 2018.

2. KMC 18.55.090 – Jurisdiction – Critical areas (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
3. KMC 18.55.130 – Mapping (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
4. KMC 18.55.140 – Signs and fencing of critical areas (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
5. KMC 18.55.150 – Exemptions (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
6. KMC 18.55.190 – Critical areas reports – Requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
7. KMC 18.55.200 – Mitigation requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
8. KMC 18.55.210 – Mitigation sequencing (as adopted in Ordinance No. 12-0334).
9. KMC 18.55.220 – Mitigation plan requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
10. KMC 18.55.230 – Unauthorized alterations and enforcement (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
11. KMC 18.55.250 – Notice on title (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
12. KMC 18.55.260 – Critical area tracts (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
13. KMC 18.55.270 – Building setbacks (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
14. KMC 18.55.280 – Bonds to ensure mitigation, maintenance, and monitoring (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
15. KMC 18.55.290 – Critical area inspections (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
16. KMC 18.55.300 – Designation and rating of wetlands (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
17. KMC 18.55.320 – Wetland performance standards – General requirements (as codified

from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334, and as further amended through Ordinance 12-0334).

18. KMC 18.55.330 – Wetland performance standards – Mitigation requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334, and as further amended through Ordinance 12-0334).

19. KMC 18.55.400 – Designation and rating of streams (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

20. KMC 18.55.420 – Streams performance standards – General requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

21. KMC 18.55.430 – Streams performance standards – Mitigation requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

22. KMC 18.55.500 – Designation of fish and wildlife habitats of importance (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

23. KMC 18.55.520 – Fish and wildlife habitat performance standards – General (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

24. KMC 18.55.530 – Fish and wildlife habitat performance standards – Mitigation requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334, and as further amended through Ordinance 12-0334).

25. KMC 18.55.600 – Geologically hazardous areas – Purpose (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

26. KMC 18.55.610 – Designation of geologically hazardous areas (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

27. KMC 18.55.620 – Designation of specific hazard areas (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

28. KMC 18.55.640 – Geologically hazardous areas performance standards – General requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

29. KMC 18.55.650 – Geologically hazardous areas performance standards – Specific areas (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

30. KMC 18.55.700 – Flood hazard areas (as codified from Ordinance No. 06-0244 and set

forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

31. KMC 18.55.710 – Flood fringe – Development standards and permitted alterations (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

32. KMC 18.55.720 – Zero-rise floodway – Development standards and permitted alterations (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

33. KMC 18.55.730 – FEMA floodway – Development standards and permitted alterations (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

34. KMC 18.55.740 – Flood hazard areas – Certification by engineer or surveyor (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

35. KMC 18.55.750 – Channel relocation and stream meander areas requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

Other sections of the Kenmore Municipal Code cross-referenced in this chapter are provided for reference purposes. Unless specifically stated, the Shoreline Master Program does not eliminate or reduce the requirements of any other portion of the Kenmore Municipal Code. [Ord. 12-0334 § 3 (Exh. 1).]

16.05.070 Severability.

If any provision of this title or the master program regulations and procedures hereby adopted or its application to any person or circumstance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this title or the master program. [Ord. 12-0334 § 3 (Exh. 1).]

¹ Certain critical area code sections from Chapter 18.55 KMC – as they existed at the time of Shoreline Master Program approval by the Washington Department of Ecology in 2012 and are described in KMC [16.05.060\(B\)](#) – have been adopted into the shoreline regulations as part of the Shoreline Master Program. Future amendments to these sections of Chapter 18.55 KMC will not be in effect in the shoreline jurisdiction unless and until the Shoreline Master Program also is amended.

**Chapter 16.10
DEFINITIONS**

Sections:

[16.10.010 Applicability of RCW and WAC definitions.](#)

[16.10.020 Applicant.](#)

[16.10.030 Access, public.](#)

[16.10.032 Accessory structure.](#)

[16.10.035 Accessory use.](#)

[16.10.040 Aquaculture.](#)

[16.10.050 Associated wetlands.](#)

[16.10.070 Backfill.](#)

[16.10.080 Berm.](#)

[16.10.090 Breakwater.](#)

[16.10.100 Bulkhead.](#)

[16.10.105 Channel migration zone.](#)

[16.10.107 Commercial development.](#)

[16.10.110 Critical areas.](#)

[16.10.115 Critical freshwater habitat.](#)

[16.10.120 Department.](#)

[16.10.130 Development.](#)

[16.10.140 Director.](#)

[16.10.150 Dock.](#)

[16.10.160 Dredging.](#)

[16.10.170 Ecological functions.](#)

[16.10.180 Fill.](#)

- [16.10.185 Fish and wildlife habitat area of importance.](#)
- [16.10.190 Float.](#)
- [16.10.200 Floating home.](#)
- [16.10.210 Floodplain.](#)
- [16.10.220 Floodway.](#)
- [16.10.230 Grading.](#)
- [16.10.235 Government services.](#)
- [16.10.240 Groin.](#)
- [16.10.250 Hatchery.](#)
- [16.10.260 Height.](#)
- [16.10.270 Jetty.](#)
- [16.10.275 Live-aboard.](#)
- [16.10.280 Marina.](#)
- [16.10.285 Manufacturing uses.](#)
- [16.10.290 Nonconforming structure.](#)
- [16.10.300 Nonconforming use.](#)
- [16.10.310 No net loss.](#)
- [16.10.320 Non-water-oriented uses.](#)
- [16.10.330 Normal protective bulkhead common to single-family residences.](#)
- [16.10.340 Open space, required.](#)
- [16.10.350 Ordinary high water mark.](#)
- [16.10.355 Park/recreation recreational/cultural uses.](#)
- [16.10.360 Pier.](#)
- [16.10.370 Port.](#)

- [16.10.380 Recreational development.](#)
- [16.10.390 Redesignation.](#)
- [16.10.395 Residential development.](#)
- [16.10.400 Restoration.](#)
- [16.10.410 Riprap.](#)
- [16.10.420 Sediment.](#)
- [16.10.430 Shall.](#)
- [16.10.440 Should.](#)
- [16.10.445 Shoreline buffer.](#)
- [16.10.450 Shorelands.](#)
- [16.10.460 Shoreline environment.](#)
- [16.10.470 Shoreline Master Program.](#)
- [16.10.480 Shoreline modifications.](#)
- [16.10.500 Shoreline stabilization.](#)
- [16.10.510 Shorelines.](#)
- [16.10.520 Shorelines of statewide significance.](#)
- [16.10.530 Shorelines of the State.](#)
- [16.10.540 Sign.](#)
- [16.10.550 Significant vegetation removal.](#)
- [16.10.560 Solid waste.](#)
- [16.10.570 Substantial development.](#)
- [16.10.580 Utilities and utility facilities.](#)
- [16.10.590 Water-dependent use.](#)
- [16.10.600 Water-related use.](#)

[16.10.610 Water-enjoyment use.](#)

[16.10.620 Water-oriented use.](#)

[16.10.630 Water transmission pipeline.](#)

[16.10.640 Wetlands.](#)

16.10.010 Applicability of RCW and WAC definitions.

The definitions contained in this chapter, KMC Title 18 (zoning code), Chapter 90.58 RCW and Chapter 173-26 WAC shall apply within the shoreline jurisdiction. The definitions in Chapter 90.58 RCW and Chapter 173-26 WAC shall apply in shorelines if there is a conflict with the definitions contained in this title and KMC Title 18. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.020 Applicant.

“Applicant” means a property owner or a public agency or public or private utility which owns a right-of-way or other easement or has been adjudicated the right to such an easement pursuant to RCW 8.12.090, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.030 Access, public.

“Public access” means the ability of the general public to reach, touch, and enjoy the water’s edge, to travel on waters of the State, and to view the water and the shoreline from adjacent locations. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.032 Accessory structure.

“Accessory structure” means a structure that is incidental to the principal structure. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.035 Accessory use.

“Accessory use” means a use that is incidental to a principal use. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.040 Aquaculture.

“Aquaculture” means the culture or farming of fin fish, shellfish, algae or other plants or animals in fresh or marine waters. Excluded from the definition of aquaculture are related commercial or industrial uses such as wholesale or retail sales, or final processing, packing, or freezing. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.050 Associated wetlands.

“Associated wetlands” means wetlands that are in proximity to tidal waters, lakes, rivers or streams that are subject to the Shoreline Management Act and either influence or are influenced by such waters. Factors used to determine proximity and influence include, but are not limited to: location

contiguous to a shoreline water body, formation by tidally influenced geohydraulic processes, presence of a surface connection, including through a culvert or tide gate, location in part or whole within the floodplain of a shoreline, periodic inundation, and/or hydraulic continuity. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.070 Backfill.

“Backfill” means the placement of earth material behind a retaining wall or structure. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.080 Berm.

“Berm” means one or several linear mounds of sand and gravel at or landward of the ordinary high water mark which are normally stable because of material size or vegetation. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.090 Breakwater.

“Breakwater” means an offshore structure, either floating or not, which may or may not be connected to the shore, such structure being designated to absorb and/or reflect back into the water body the energy of the waves. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.100 Bulkhead.

“Bulkhead” means a solid or open pile wall of rock, concrete, steel or timber or other materials or a combination of these materials erected generally parallel to and near the ordinary high water mark for the purpose of protecting adjacent wetlands and uplands from waves or currents. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.105 Channel migration zone.

“Channel migration zone” means the area within which a river channel is likely to move over a period of time, and is therefore subject to risk due to stream bank destabilization, rapid stream incision, stream bank erosion, and shifts in the location of stream channels. Channel relocation and stream meander areas as defined at KMC 18.55.750 are channel migration zones. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.107 Commercial development.

“Commercial development” includes general services, business services, and retail, defined as follows:

A. General services includes general personal services, funeral home/crematory, cemetery/columbarium/mausoleum, day care facilities, veterinary clinic, automotive repair, automotive services, vessel construction and outfitting, miscellaneous repair, churches/synagogues/temples, social services, stable, kennel/cattery, theatrical production services, artist studios, interim recycling facility, office/outpatient clinic, nursing and personal care facilities, hospital, medical/dental lab, miscellaneous health, and school district support facility.

B. Business services includes construction and trade, individual transportation and taxi, trucking and courier service, self-service storage, dry boat storage, commercial moorage, transportation service, freight or cargo service, passenger transportation service, communication offices, telegraph and other communications facilities, general business service, professional office, outdoor advertising service, miscellaneous equipment rental, automotive rental and leasing, professional sport teams/promoters, research development and testing, and commercial/industrial accessory uses.

C. Retail includes building/hardware/garden materials, forest products sales, department and variety stores, food stores, agricultural product sales, motor vehicle and boat dealers, auto supply stores, gasoline service stations, apparel and accessory stores, furniture and home furnishings stores, eating and drinking places, drug stores, liquor stores, used goods shops, sporting goods and related stores, book/stationery/video/art supply stores, jewelry stores, monuments/tombstones/gravestones, hobby/toy/game shops, photographic and electronic shops, fabric shops, fuel dealers, florist shops, personal medical supply stores, pet shops, bulk retail, auction houses, livestock sales, and food vendors. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.110 Critical areas.

“Critical areas” means any of the following areas or ecosystems: aquifer recharge areas, fish and wildlife habitat areas of importance, frequently flooded areas, geologically hazardous areas, streams, and wetlands, as defined in Chapter 36.70A RCW and this chapter. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.115 Critical freshwater habitat.

“Critical freshwater habitat” shall refer to shorelines meeting the definition of “fish and wildlife habitat of importance” in KMC 18.55.520. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.120 Department.

“Department” means the department of community development. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.130 Development.

“Development” is defined in Chapter 90.58 RCW as now or hereafter amended. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.140 Director.

“Director” means the director of the department of community development or an authorized designee. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.150 Dock.

“Dock” means all platform structures or anchored devices in or floating upon water bodies to provide moorage for pleasure craft or landing for water-dependent recreation including, but not limited to, floats, swim floats, float plane moorages, and water ski jumps. Excluded are launch

ramps. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.160 Dredging.

“Dredging” means the removal, displacement, and/or disposal of unconsolidated earth material such as sand, silt, gravel, or other submerged materials from the bottom of water bodies, ditches, or wetlands; maintenance dredging and/or support activities are included in this definition. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.170 Ecological functions.

“Ecological functions” or shoreline functions means the work performed or role played by the physical, chemical and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline’s natural ecosystem. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.180 Fill.

“Fill” means the addition of soil, sand, rock, gravel, sediment, earth retaining structure or other material to an area waterward of the ordinary high water mark, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.185 Fish and wildlife habitat area of importance.

“Fish and wildlife habitat area of importance” means those habitat areas that meet any of the following criteria:

- A. Documented presence of species listed by the federal government or the State of Washington as endangered or threatened; or
- B. Heron rookeries or active nesting trees; or
- C. Class 1 wetlands as defined in KMC 18.55.300; or
- D. Type 1 streams as defined in KMC 18.55.400; or
- E. Bald eagle habitat protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292).

Swamp Creek, the Sammamish River, and Lake Washington are all fish and wildlife habitat areas of importance. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.190 Float.

“Float” means a structure or device which is not a breakwater and which is moored, anchored, or otherwise secured in the waters of the City of Kenmore and which is not connected to the shoreline. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.200 Floating home.

“Floating home” means a houseboat, boat or building constructed on a float, used in whole or in part for human habitation as a dwelling unit, and which is moored, anchored, or otherwise secured in waters within the City of Kenmore. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.210 Floodplain.

“Floodplain” is synonymous with “100-year floodplain” and means the land area that may be inundated by the base flood of a river or stream. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.220 Floodway.

“Floodway” means those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which floodwaters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually; said floodway being identified, under normal conditions, by changes in surface soil conditions or changes in types or quality of vegetation ground cover condition. The floodway shall not include lands that can reasonably be expected to be protected from floodwaters by flood control devices maintained by or maintained under license from the federal government, the State, or the county. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.230 Grading.

“Grading” means the addition, excavation, movement, or redistribution of soil, sand, rock, gravel, sediment or other material on a site in a manner that alters the natural contour of the land. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.235 Government services.

“Government services” means a public agency or utility office, public agency or utility yard, public agency archives, court, police facility, fire facility, caretaker residence/accessory, City government offices, elementary school, middle/junior high school, secondary/high school, specialized instruction school, K-12 educational institutions (public or private), and colleges/universities. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.240 Groin.

“Groin” means a barrier-type structure extending from the backshore into the water across the beach. The purpose of a groin is to interrupt sediment movement along the shore. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.250 Hatchery.

“Hatchery” means a facility for the rearing and/or holding of fish, the design of which is compatible with the natural environment and contains minimal development necessary for fish propagation. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.260 Height.

“Height” shall be measured from the average finished grade to the highest point of the roof. The average finished grade shall be determined by first delineating the smallest square or rectangle

which can enclose the building and then averaging the elevations taken at the midpoint of each side of the square or rectangle; provided, that the measured elevations do not include berms. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.270 Jetty.

“Jetty” means an artificial barrier used to change the natural littoral drift to protect inlet entrances from clogging by excess sediment. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.275 Live-aboard.

“Live-aboard” means a licensed vessel that is used as a primary residence. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.280 Marina.

“Marina” means a marine retail sales and service use, in which a system of piers, buoys, or floats is used to provide moorage, primarily for pleasure craft, for sale or rent, usually on a monthly or yearly basis. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.285 Manufacturing uses.

“Manufacturing uses” means production of food and kindred products, winery/brewery, apparel and other textile products, wood products, furniture and fixtures, leather and leather goods, stone/clay/glass/concrete products, computer and office equipment, electronic and other electric equipment, measuring and controlling instruments, printing and publishing, miscellaneous light manufacturing, tire retreading, movie production and distribution, and commercial barge loading and unloading facility. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.290 Nonconforming structure.

“Nonconforming structure” means a structure that was lawfully constructed prior to the effective date of these regulations, but which no longer conforms to the applicable regulations of the master program. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.300 Nonconforming use.

“Nonconforming use” means a use that was lawfully established prior to the effective date of these regulations, but which no longer conforms to the applicable regulations of the master program. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.310 No net loss.

Per WAC 173-26-201(2)(c), the concept of “no net loss” of shoreline ecological functions means that the Kenmore Shoreline Master Program provisions shall, to the greatest extent feasible, protect existing shoreline ecological processes and functions and avoid new adverse impacts to ecological processes and functions. The term “net,” as used herein, recognizes that any development has potential for short-term or long-term impacts and that through application of appropriate development standards, avoidance of impacts and use of mitigation measures, those impacts will

not diminish the shoreline resources and values as they currently exist. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.320 Non-water-oriented uses.

"Non-water-oriented uses" means those uses that are not water-dependent, water-related or water-enjoyment. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.330 Normal protective bulkhead common to single-family residences.

"Normal protective bulkhead common to single-family residences" means a bulkhead constructed on a building site zoned to permit one single-family residence and containing one single-family residence. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.340 Open space, required.

"Required open space" means a portion of the area of a building site, which is required by this title, as set forth in different designations contained in this title, to be maintained as open area to be available for use by the persons specified in a development. Open spaces are required to be free and clear of buildings and structures and to remain open and unobstructed from the ground to the sky. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.350 Ordinary high water mark.

"Ordinary high water mark" means the ordinary high water mark as defined in Chapter 90.58 RCW as now or hereafter amended. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.355 Park/recreation recreational/cultural uses.

"Park/recreation recreational/cultural uses" means destination resorts, recreational vehicle park, theater, drive-in theater, bowling center, amusement and recreation services, amusement arcades, amusement park, library, museum, conference center, arboretum, cultural facilities, indoor recreational facilities (including sports clubs), open space, outdoor recreational facilities, parks, trails, wildlife shelter, and outdoor performance center. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.360 Pier.

"Pier" means any platform structure, fill, or anchored device in or floating upon water bodies to provide moorage for watercraft engaged in commerce. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.370 Port.

"Port" means public or private facilities for transfer of cargo or passengers from waterborne craft to land and vice versa; including, but not limited to: piers, commercial float plane moorages, offshore loading or unloading buoys, ferry terminals, and required dredged waterways, moorage basins, and equipment for transferring cargo or passengers between land and water modes. Excluded from this definition and addressed elsewhere are airports, marinas, boat ramps or docks used primarily for recreation, cargo storage and parking areas not essential for port operations, boat building or repair. The latter group is considered industrial or accessory to other uses. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.380 Recreational development.

"Recreational development" means a private or public development operated and devoted to facilities and equipment for recreational purposes, including but not limited to swimming pools, tennis courts, playgrounds, picnic areas, campgrounds, resorts and other similar uses whether the use of such area is limited to those paying a fee or free to the public. Also see definition for "park/recreation recreational/cultural uses." [Ord. 12-0334 § 3 (Exh. 1).]

16.10.390 Redesignation.

"Redesignation" means a change in the shoreline environment designation by the procedures provided in Chapter [16.75](#) KMC. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.395 Residential development.

"Residential development" includes single-family and multiple-family dwellings, group residences, temporary lodging, and uses that are accessory to residential development.

A. "Dwelling, single-family" means a detached residence for one family.

B. "Dwelling, multiple-family" means a townhouse, apartment, and mobile home parks.

C. "Group residences" means community residential facilities, dormitory, and senior assisted housing.

D. "Temporary lodging" means hotel/motel, bed and breakfast guesthouse, and organization hotel/lodging houses.

E. "Accessory uses" means residential accessory uses, home occupation, and home industry. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.400 Restoration.

"Restoration" or "ecological restoration" means the reestablishment or upgrading of impaired ecological shoreline processes or functions. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.410 Riprap.

"Riprap" means hard angular quarry rock used for revetments or other bank stabilization projects. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.420 Sediment.

"Sediment" means material settled from suspension in a liquid medium. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.430 Shall.

"Shall" means a mandate; the action must be done. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.440 Should.

“Should” means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of Chapter 90.58 RCW and Chapter 173-26 WAC, against taking the action. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.445 Shoreline buffer.

“Shoreline buffer” means a required vegetation conservation area measured horizontally upland from and perpendicular to the ordinary high water mark, as described in KMC [16.65.020](#). [Ord. 12-0334 § 3 (Exh. 1).]

16.10.450 Shorelands.

“Shorelands” or “shoreland areas” means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams and lakes that are subject to the provisions of Chapter 90.58 RCW. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.460 Shoreline environment.

“Shoreline environment” or “shoreline environment designation” means the categories of shorelines of the State established by the City of Kenmore shoreline management master program to differentiate between areas whose features imply differing objectives regarding their use and future development. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.470 Shoreline Master Program.

A. “Shoreline Master Program” consists of the following two elements:

1. Shoreline management goals and policies contained in the shoreline subelement of the Kenmore comprehensive plan. The shoreline management goals and policies constitute the official policy of Kenmore regarding areas of the City subject to shoreline management jurisdiction under Chapter 90.58 RCW;
2. The shoreline regulations specified in this chapter.

B. The following technical and planning information provides a foundation for shoreline policies and regulations, and is intended to aid in implementing and evaluating the Shoreline Master Program:

1. The shoreline protection and restoration plan;
2. The cumulative impacts analysis, which provides a mechanism for examining the success of meeting the requirement for no net loss of ecological functions;
3. The Shoreline Master Program checklist and public involvement process, which shows how Kenmore meets the procedural requirements for updating the Shoreline Master Program; and
4. The shoreline inventory and characterization, which includes data and analytic methods

used to develop Kenmore's shoreline inventory and shoreline characterization. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.480 Shoreline modifications.

"Shoreline modifications" means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, fill, bulkhead, or other shoreline structure. Shoreline modifications can include other actions, such as clearing, grading, or application of chemicals. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.500 Shoreline stabilization.

"Shoreline stabilization" means actions taken to address erosion impacts to property and dwellings, businesses or structures caused by natural processes, such as current, flood, tides, wind or wave action. These actions include installation or expansion of structures, such as bulkheads, jetties, groins or vegetation, and nonstructural methods, such as relocation of the structure to be protected, or groundwater management. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.510 Shorelines.

"Shorelines" means lakes greater than 20 acres and rivers and streams with a minimum of 20 cubic feet per second mean annual flow, including the entire water body waterward from the ordinary high water mark from its centerline or point, all water below the surface and associated shorelands. Kenmore shorelines are shown on the adopted map entitled Kenmore Shoreline Environment Designations (attached to Ord. 12-0334 as Exhibit 2, and incorporated by reference). If there is a discrepancy between the map and the criteria established in this section, the criteria shall constitute the official Kenmore shoreline jurisdiction. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.520 Shorelines of statewide significance.

"Shorelines of statewide significance" means those shorelines described in RCW 90.58.030(2)(e) which are within the City of Kenmore. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.530 Shorelines of the State.

"Shorelines of the State" means the total of all shorelines and shorelines of statewide significance within the City of Kenmore. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.540 Sign.

"Sign" means any letters, figures, design, symbol, light, structure, billboard, trademark or device intended or used to attract attention to any activity, service, place, subject, person, firm, corporation, public performance, article, machine, merchandise or thing. Excluded from definition and regulation by this title are official traffic signs or signals, official public notices, signs required by law, warning signs, the flag of a government or noncommercial institution such as schools and temporary signs worn or carried by people. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.550 Significant vegetation removal.

“Significant vegetation removal” means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, burning, chemical means, or other activity that causes significant adverse ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.560 Solid waste.

“Solid waste” means all putrescible and nonputrescible solid and semisolid wastes including but not limited to garbage, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof and discarded commodities. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.570 Substantial development.

“Substantial development” means any development which requires a shoreline management substantial development permit, as defined in RCW 90.58.030(3)(e) as now or hereafter amended. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.580 Utilities and utility facilities.

“Utilities” means all lines and facilities related to the distribution, collection, transmission or disposal of water, storm and sanitary sewage, oil, gas, power or refuse. Utility facilities include telephone exchanges, water pumping or treatment stations or distribution systems, electrical substations, water storage reservoirs or tanks, municipal groundwater well-fields, natural gas gate stations and limiting stations, propane/compressed natural gas/liquefied natural gas storage tanks serving multiple lots or uses from which fuel is distributed directly to individual users, electrical wires and associated structural supports, private and public stormwater management facilities, nonregional stormwater management facility, and vector waste receiving facility. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.590 Water-dependent use.

“Water-dependent use” or “water-dependent development” means a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.600 Water-related use.

“Water-related use” or “water-related development” means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent on a waterfront location because:

- A. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- B. The use provides a necessary service supportive of the water-dependent uses, and the

proximity of the use to its customers makes its services less expensive and/or more convenient. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.610 Water-enjoyment use.

“Water-enjoyment use” means a recreation use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public’s ability to enjoy the physical and aesthetic qualities of the shoreline. The use must be open to the general public. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.620 Water-oriented use.

“Water-oriented use” means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.630 Water transmission pipeline.

“Water transmission pipeline” means a facility having as its primary purpose the transmission of water by a municipal purveyor for sale for domestic, commercial, and industrial use. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.640 Wetlands.

“Wetlands” means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands. [Ord. 12-0334 § 3 (Exh. 1).]

Chapter 16.15
SHORELINE ENVIRONMENT DESIGNATIONS

Sections:

[16.15.010 Purpose.](#)

[16.15.020 Names of shoreline environment designations.](#)

[16.15.030 Limits of shoreline environment designations.](#)

16.15.010 Purpose.

A. The purpose of shoreline environment designations is to differentiate between areas whose geographical, hydrological, topographical or other features imply differing objectives regarding the use and future development of the shorelines of the State.

B. Each shoreline environment designation represents a particular emphasis in the type of uses, type of modifications, and the density and dimensions of development which should occur within it. The environment designation system is designed to encourage uses in each environment which enhance or are compatible with the character of the environment while at the same time requiring reasonable standards and restrictions on development so that the character of the environment is not adversely impacted. [Ord. 12-0334 § 3 (Exh. 1).]

16.15.020 Names of shoreline environment designations.

In order to accomplish the goals, policies, and regulations of the Kenmore Shoreline Master Program, the following shoreline environment designations have been established:

A. Downtown Waterfront Environment.

B. Shoreline Residential Environment.

C. Urban Conservancy Environment.

D. Natural Environment.

E. Aquatic Environment. [Ord. 12-0334 § 3 (Exh. 1).]

16.15.030 Limits of shoreline environment designations.

The shoreline environment designations are included on Map 1, entitled Shoreline Environment Designations Map. If there is a discrepancy between Map 1 and the criteria established in the Kenmore comprehensive plan for shoreline environment designations, the criteria shall constitute the official Kenmore shoreline environment designation. Any parcel of land included within the shoreline jurisdiction without a shoreline environment designation shall be considered Urban Conservancy Environment.

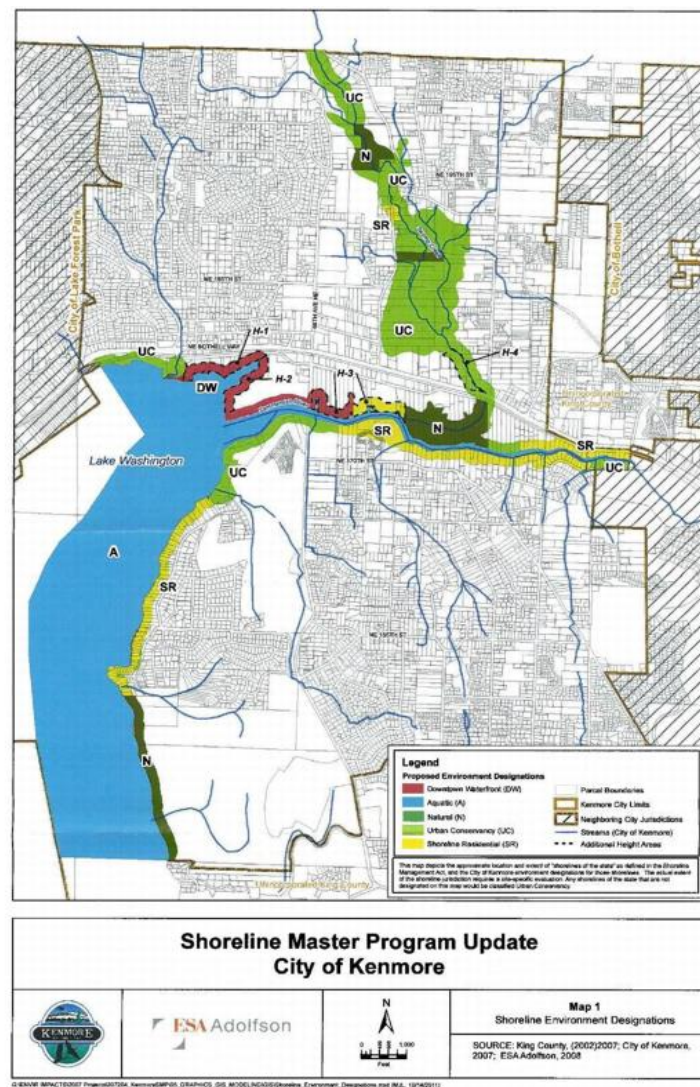


Exhibit 2

[Ord. 12-0334 § 3 (Exhs. 1, 2).]

Chapter 16.20
DOWNTOWN WATERFRONT ENVIRONMENT

Sections:

[16.20.010 Purpose.](#)

[16.20.020 Designation criteria.](#)

16.20.010 Purpose.

The purpose of the Downtown Waterfront Environment is to provide for mixed urban water-oriented uses, public access and recreation while protecting existing ecological functions. [Ord. 12-0334 § 3 (Exh. 1).]

16.20.020 Designation criteria.

The shoreline along the contiguous downtown waterfront that is zoned regional business in KMC Title 18 and does not meet the requirement for Urban Conservancy or Shoreline Residential designation is to be assigned the Downtown Waterfront Environment designation. [Ord. 12-0334 § 3 (Exh. 1).]

Chapter 16.25
SHORELINE RESIDENTIAL ENVIRONMENT

Sections:

[16.25.010 Purpose.](#)

[16.25.020 Designation criteria.](#)

16.25.010 Purpose.

The purpose of the Shoreline Residential Environment is to accommodate residential development and appurtenant structures. An additional purpose is to provide appropriate public access and recreational uses within new multifamily developments or on public property. [Ord. 12-0334 § 3 (Exh. 1).]

16.25.020 Designation criteria.

The Shoreline Residential Environment designation should be assigned to shoreline areas if they are predominantly developed for single-family or multifamily residential uses or are planned and platted for residential development, and the shoreline areas do not meet the criteria for other designations. [Ord. 12-0334 § 3 (Exh. 1).]

Chapter 16.30
URBAN CONSERVANCY ENVIRONMENT

Sections:

[16.30.010 Purpose.](#)

[16.30.020 Designation criteria.](#)

16.30.010 Purpose.

The purpose of the Urban Conservancy Environment is to protect and restore ecological functions of open space, streams, wetlands, and floodplains, including areas below the ordinary high water mark in Swamp Creek, while allowing a variety of compatible uses. [Ord. 12-0334 § 3 (Exh. 1).]

16.30.020 Designation criteria.

An Urban Conservancy Environment designation is assigned to shoreline areas planned for development that is compatible with maintaining or restoring ecological functions and areas that are not generally suitable for water-dependent uses, if any of the following characteristics apply:

- A. The shoreline includes wetlands or exceptional riparian corridor that should not be more intensively developed;
- B. The shoreline is in public ownership and has been altered or in public ownership that is small in size and not adjacent to other publicly owned properties;
- C. The shoreline has been altered but retains important ecological functions;
- D. The shoreline has potential for ecological restoration or is a restoration priority; or
- E. The shoreline has potential for development that is compatible with ecological restoration. [Ord. 12-0334 § 3 (Exh. 1).]

Chapter 16.35 NATURAL ENVIRONMENT

Sections:

[16.35.010 Purpose.](#)

[16.35.020 Designation criteria.](#)

16.35.010 Purpose.

The purpose of the Natural Environment is to protect public shoreline areas that include ecologically intact or minimally altered shorelines. Only low intensity uses are to be allowed in this environment to maintain existing ecological processes and functions. [Ord. 12-0334 § 3 (Exh. 1).]

16.35.020 Designation criteria.

A Natural Environment designation is assigned to shoreline areas if any of the following characteristics apply:

- A. A relatively large, contiguous area of the shoreline is in public ownership and ecologically intact or minimally altered;
- B. The shoreline represents ecological processes or functions that provide educational or scientific opportunities; or
- C. The shoreline is unable to support active uses or development without significant adverse impacts to ecological functions. [Ord. 12-0334 § 3 (Exh. 1).]

Chapter 16.40 AQUATIC ENVIRONMENT

Sections:

[16.40.010 Purpose.](#)

[16.40.020 Designation criteria.](#)

16.40.010 Purpose.

The purpose of the Aquatic Environment is to protect, restore, and manage the unique characteristics and resources of navigable areas waterward of the ordinary high water mark on the Sammamish River and Lake Washington. [Ord. 12-0334 § 3 (Exh. 1).]

16.40.020 Designation criteria.

Lake Washington and the Sammamish River below the ordinary high water mark are to be designated as Aquatic Environment. In Lake Washington, the Aquatic Environment extends to the centerline of the lake. [Ord. 12-0334 § 3 (Exh. 1).]

Chapter 16.45
GENERAL SHORELINE DEVELOPMENT STANDARDS

Sections:

[16.45.010 General shoreline development requirements.](#)

16.45.010 General shoreline development requirements.

A. Kenmore shall ensure that uses and modifications within the shoreline jurisdiction do not cause a net loss of shoreline ecological functions and processes. Mitigation for impacts resulting in uses and modifications shall follow the mitigation sequencing requirements of KMC 18.55.210 and consider the priorities specified in the shoreline protection and restoration plan.

B. All shoreline uses and developments shall be subject to the following general development standards:

1. The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and groundwater on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
2. Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.
3. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage, and vessel repair facilities.
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 is prohibited, except that milfoil may be removed using chemicals; provided, that the chemicals are applied by a licensed pesticide applicator and approved for aquatic use.
5. All shoreline developments and uses shall manage increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shoreline properties and features are not adversely affected. Control measures may include, but are not limited to, permeable surfacing, dikes, catch basins, settling ponds, interceptor drains and planted buffers.

6. All shoreline developments and uses shall control erosion during project construction and operation.
7. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance of or minimize adverse impacts to protect fish and wildlife habitat conservation areas, including, but not limited to, spawning, nesting, rearing and habitat areas, and migratory routes. Where avoidance of adverse impacts is not practicable, the director may require that mitigation measures to protect species and habitat functions be developed in consultation with State resource management agencies and federally recognized tribes.
8. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, erosion and accretion.
9. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.
10. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.
11. All shoreline development shall be located, constructed and operated so as to protect public health, safety and welfare.
12. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.
13. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.
14. Navigation channels shall be kept free of hazardous or obstructing development or uses.
15. Historic properties, including historic buildings, sites, objects, districts and landscapes, prehistoric and historic archaeological resources, and traditional cultural places, shall be protected within shoreline environments as follows:
 - a. Known Historic Properties.

(1) Known historic properties inventoried by King County and Washington Department of Archaeology and Historic Preservation are subject to the procedures delineated in Chapter 2.20 KMC. Disturbance of known archaeological sites is also subject to State regulations, including Chapters 27.44, 27.53 and 68.80 RCW;

(2) If a known archaeological site or traditional cultural place is affected by a development proposal, the director shall require a site inspection or evaluation by a professional archaeologist and inform and consult with the Washington State Department of Archaeology and Historic Preservation and any concerned Native American tribes. To the extent feasible, the director shall coordinate county and State required permitting and compliance procedures and requirements to avoid substantial duplication of effort by permit applicants; and

(3) In considering shoreline permits or shoreline exemptions, the department may attach conditions to provide sufficient time for the director to consult with the Washington State Department of Archaeology and Historic Preservation and any concerned Native American tribes, and to ensure that historic properties are properly protected, or for appropriate agencies to contact property owners regarding purchase or other long-term stewardship and protection arrangements. Provision for the protection and preservation of historic properties shall be incorporated in permits and exemptions to the maximum extent practical.

b. Inadvertent Discovery.

(1) Consistent with the definitions and requirements contained in Chapters 27.44, 27.53 and 68.80 RCW, whenever potentially significant historic properties or archaeological artifacts are discovered in the process of development on shorelines, work on that portion of the development site shall be stopped immediately and the find reported as soon as possible to the director and, if an archaeological site or artifacts have been discovered, the Washington State Department of Archaeology and Historic Preservation, any concerned Native American tribes and other appropriate agencies;

(2) The director shall require that a historic property assessment be conducted immediately by a professional archaeologist, ethnographer or historic preservation professional, as applicable, in consultation with State and tribal officials as appropriate, to determine the significance of the discovery and the extent of damage that may have occurred to the resource. The historic property assessment shall be provided to the director and, if an archaeological site, archaeological artifacts or a traditional cultural place have been discovered, the Washington State Department of Archaeology and Historic Preservation, and any concerned Native American tribes to determine the significance of the discovery in accordance with Chapter 27.53 RCW

and Chapter 25-48 WAC; and

(3) Upon receipt of a positive determination of a property's significance, or if available information suggests that a negative determination is erroneous, the director may require that a historic property management plan be prepared by a qualified professional archaeologist or other appropriate professional if such action is reasonable and necessary to implement related program objectives.

c. Public Access to Historic Properties.

(1) If a private or publicly owned historic property is identified, public access shall be encouraged as appropriate for purposes of public education; provided, that:

(a) The type or level of public access is consistent with the long-term protection of both historic resource values and shoreline ecological functions; and

(b) An access management plan is developed in accordance with development site- and resource-specific conditions to address physical protection of the resource, hours of operation, interpretive or directional signage, lighting, pedestrian access, traffic, and parking, as appropriate, in consultation with the director and, if an archaeological site, archaeological artifacts or a traditional cultural place have been discovered, the Washington State Department of Archaeology and Historic Preservation, any concerned Native American tribes, or other agencies, as appropriate; and

(2) For archaeological sites and traditional cultural places, approval of proposed access measures by the Washington State Department of Archaeology and Historic Preservation, any concerned Native tribes or other agencies, as appropriate, shall be required prior to provision of public access to a site.

16. All projects within the shoreline jurisdiction that are either publicly funded or on public land shall include improvements to shoreline public access.

17. Heating and cooling equipment may not be placed in waters of the State. [Ord. 12-0334 § 3 (Exh. 1).]

Chapter 16.50 SHORELINE USES

Sections:

[16.50.010 General shoreline uses.](#)

[16.50.020 Interpretation of shoreline use table.](#)

[16.50.030 Shoreline use table and conditions.](#)

[16.50.040 Aquaculture.](#)

[16.50.050 Public boat launching facilities and marinas.](#)

[16.50.060 Public access.](#)

[16.50.070 Recreation.](#)

[16.50.080 Utility facilities.](#)

[16.50.085 Transportation uses.](#)

[16.50.090 Residential uses.](#)

[16.50.100 Channel migration zone on Swamp Creek.](#)

16.50.010 General shoreline uses.

A. All uses in the shoreline jurisdiction must comply with all City code provisions and with the Kenmore Shoreline Master Program. For a use to be permitted in the shoreline, it must be a permitted use in the underlying zone, and must be listed as a permitted or conditional use in KMC [16.50.030](#). This section may not authorize a land use that is not allowed by the underlying zoning, but may add restrictions or conditions or prohibit specific land uses within the shoreline jurisdiction.

B. Uses not specifically addressed in this table may be permitted as conditional uses in the shoreline jurisdiction, provided the use meets the criteria for a shoreline conditional use permit.

C. When there is a conflict between permitted land uses, preference for shoreline uses shall first be given to water-dependent uses, then to water-related uses, then to water-enjoyment uses, and finally to non-water-oriented uses.

D. Uses existing as of March 30, 2012, that do not conform to these regulations may be continued subject to the provisions of this chapter. [Ord. 12-0334 § 3 (Exh. 1).]

16.50.020 Interpretation of shoreline use table.

A. The shoreline use table in KMC [16.50.030](#) indicates whether a specific use is allowed within each of the shoreline environments and whether it is permitted outright or allowed only as a

shoreline conditional use. The process through which a use or development may be permitted is defined under procedures in Chapter [16.75](#) KMC.

B. In the table, shoreline environments are listed at the top of each column and the specific uses are listed along the left-hand side of each horizontal row. The cell at the intersection of a column and a row indicates whether a use may be allowed in a specific shoreline environment and whether additional use criteria apply. The table should be interpreted as follows:

1. If the letter "P" appears in the box at the intersection of the column and the row, the use may be permitted within the shoreline environment if the underlying zoning also allows the use.
2. If the letter "C" appears in the box at the intersection of the column and the row, the use may be allowed within the shoreline environment subject to the shoreline conditional use review procedures specified in Chapter [16.75](#) KMC, and only if the underlying zoning allows the use.
3. If the letter "X" appears in the box at the intersection of the column and the row, the use is prohibited in that shoreline environment.
4. If a number appears after the letter "P" or "C" in the box at the intersection of the column and the row, additional use criteria apply. The use may be permitted subject to the appropriate review process in this section only if the specific use criteria indicated with the corresponding number immediately following the table are satisfied, and only if the underlying zoning allows the use. If more than one number appears at the intersection of the column and row, both numbers apply.
5. If more than one letter-number combination appears in the box at the intersection of the column and the row, the use is allowed within that shoreline environment subject to different sets of limitations or criteria depending on the review process indicated by the letter, the specific development criteria indicated in the development condition with the corresponding number immediately following the table, and only if KMC Title 18 allows the use. [Ord. 12-0334 § 3 (Exh. 1).]

16.50.030 Shoreline use table and conditions.

A. Shoreline Use Table.

Shoreline Use Table					
KEY					
P – Permitted Use					
C – Shoreline Conditional Use					
	DOWNTOWN	SHORELINE	URBAN		
	WATERFRONT	RESIDENTIAL	CONSERVANCY	NATURAL	AQUATIC

Aquaculture					
Aquaculture uses	X	X	X	X	C1
Commercial Development					
General services	P2, X2	X	P2, 3, X2	X	C2
Business services	P2, X2	X	P2, 3, X2	X	C2
Retail	P2, X2	X	P2, 3, X2	X	C2
Mining	X	X	X	X	X
Principal use parking	X	X	X	X	X
Government Services					
Government services	P4	P4	P4	P4	C4
Manufacturing					
Manufacturing uses	P2	X	X	X	X
Park/Recreation					
Recreational/cultural	P5	P6	P6	P7	C5
Marinas (recreational boat moorage)	P8	X	P	X	P
Public boat launch	P	X	P, C9	X	P
Golf course	X	X	C	X	X
Residential Development					
Dwelling units, single detached	X	P	P	C	P10
Dwelling, multiple-family	P2	P	P2	X	X
Mobile home park	X	C	X	X	X
Group residences	P2	P	P	C	X
Accessory uses	P	P	P	C	X
Temporary lodging	P2	X	X	X	X
Regional Land Uses					
Airport/heliport or	C, X17	X	X	X	C, X17

helistop					
Ferry terminal	C	X	X	X	C
Highway and street, except for in-water uses	C11	C11	C11	C11	C11
Commuter parking	C16	X	X	X	X
Wastewater treatment facility and municipal water production, except for in-water uses	C8, 12	C8, 12	X	X	X
Regional stormwater management facilities	P13	P13	P13	P13	X
Utilities					
Utility facility, except for in-water uses	P13	P13	P13	P13	X
In-Water Structural Uses					
In-water wastewater treatment facility, in-water municipal water production facility	X	C12	C12	C12	C12
In-water utility facilities	X	C13	C13	C13	C13
In-water and overwater highway and street facilities	X	C11, 14	C11, 14	C11, 14	C11, 14
In-water fish and wildlife management, except aquaculture	X	C	C	C	C
Signs					
Signs	P15	P15	P15	P15	P15

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

1. Aquaculture may be allowed only in Lake Washington and only under the following conditions:

- a. Aquaculture operations are located at least 500 feet from the Shoreline Residential and Downtown Waterfront Environments.
- b. Aquaculture operations waterward of the Natural Environment and Urban Conservancy Environment are limited to activities that do not require structures, facilities or mechanized harvest practices.

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

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 the Kenmore SMP 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. The development does not include the following uses, which are prohibited in the shoreline: funeral home/crematory; veterinary clinic; cemetery/columbarium/mausoleum; automotive repair; automotive services; stable/kennel/cattery; hospital; outdoor advertising service; miscellaneous equipment rental; automotive rental and leasing; gasoline service stations; fuel dealers; auction houses; livestock sales; amusement park; drive-in theater; public agency or utility yard; and propane/compressed natural gas/liquefied natural gas storage tanks serving multiple lots or uses from which fuel is distributed directly to individual users.

3. New commercial uses may be permitted only if allowed in the underlying zoning, and if public access is provided and the project includes ecological enhancement consistent with KMC [16.60.010](#). Existing non-water-dependent commercial uses may be expanded, provided the expansion complies with all development standards and the project includes ecological enhancement consistent with KMC [16.60.010](#).

4. Only the water-dependent portion of the use shall be allowed in the shoreline environment, except as provided in this section for utility uses.

5. In Downtown Waterfront and Aquatic Environments, water-oriented recreational uses including parks and public access trails and facilities may be allowed; provided, that in the Downtown Waterfront minor non-water-oriented accessory uses such as children's play equipment, picnic tables, or outdoor exercise course equipment may also be allowed if they meet the other requirements of this chapter. All other recreational uses shall be prohibited.

6. In Urban Conservancy and Shoreline Residential Environments, parks and trails shall be allowed. All other recreational uses shall be prohibited.

7. In the Natural Environment, water-oriented passive and low-impact recreational uses shall be allowed. All other recreational uses shall be prohibited.

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

9. A boat launch that accommodates motorized vehicles for launching vessels is a conditional

use in the Urban Conservancy Environment. Facilities for hand launching of nonmotorized vessels may be allowed as permitted uses.

10. New overwater 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.

11. 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; parking facilities are prohibited in the Natural Environment unless supporting a water-dependent use.

12. The water-dependent and in-water portions of wastewater treatment and municipal water production facilities may be allowed as a conditional use.

13. 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.

14. Highway and street infrastructure that must be located in water or over water, such as bridges and bridge supports, may be permitted; provided, that the priorities of the Kenmore shoreline restoration plan are considered in designing mitigation for impacts from the project.

15. Signs may be permitted subject to the provisions of the underlying zoning and provided:

- a. Signs shall not be erected nor painted on trees, rocks or other natural features.
- b. Glare from artificial lighting of signs shall be shielded or directed away from adjacent properties and the water.
- c. Signs waterward of the ordinary high water mark adjacent to the Downtown Waterfront

Environment shall be permitted only to the extent necessary for the operation of a permitted water-dependent use, provided no such sign shall be larger than five square feet.

d. In the Shoreline Residential, Urban Conservancy and Natural Environments, signs are not allowed except for signs of not more than five square feet within public parks or trails.

e. Signs to protect public safety or prevent trespass may be allowed and should be limited in size and number to the maximum extent practical.

16. Commuter parking may only be allowed if it is designed to serve a passenger ferry system.

17. Helistops and heliports are prohibited in all environments.

C. Accessory Uses.

1. Any principal use permitted in a specific shoreline environment either outright or as a special use or conditional use shall also be permitted as an accessory use outright or as a conditional use.

2. Uses prohibited as principal uses but customarily incidental to a use permitted in a shoreline environment may be permitted as accessory uses only if clearly incidental and necessary for the operation of a permitted principal use unless expressly permitted or prohibited as accessory uses. Examples of accessory uses include parking, offices, and outdoor storage areas. For purposes of this section, landfill, water-based airports, heliports and helistops shall not be considered to be accessory to a principal use and shall only be permitted as provided in the applicable shoreline environment.

3. Unless specifically stated otherwise in the regulations for the applicable environment, accessory uses that are non-water-dependent and non-water-related, even if accessory to water-dependent or water-related uses, shall be permitted over water according to subsection A of this section only if either:

a. The over-water location is necessary for the operation of the water-dependent or water-related use; or

b. The lot has a depth of less than 50 feet of dry land.

4. Parking shall not be permitted over water unless it is accessory to a water-dependent or water-related use located on a lot with a depth of less than 50 feet of dry land and the director determines that adequate on-site or off-site dry land parking within 800 feet is not reasonably available.

5. Piers, floats, pilings, breakwaters, drydocks and similar accessory structures for moorage shall be permitted as accessory to permitted uses subject to the development standards unless specifically prohibited in the applicable shoreline environment.

6. Accessory uses shall be located on the same lot as the principal use; provided, that when the accessory use is also permitted as a principal use in the shoreline environment applicable to an adjacent lot, the accessory use may be located on that adjacent lot. [Ord. 12-0334 § 3 (Exh. 1).]

16.50.040 Aquaculture.

A. Any structure used for aquaculture that is placed waterward of the ordinary high water mark shall be placed so as not to:

1. Be a significant hazard to navigation;
2. Cause significant damage to neighboring properties;
3. Be a significant hazard to divers and boaters who may frequent the area.

B. Any byproducts of the aquatic resources facility which are discharged into the water shall not degrade the quality of the recipient water body.

C. Aquaculture shall be installed with minimum disturbance to banks and channels and shall not cause extensive erosion or accretion along adjacent shorelines.

D. Aquaculture facilities should be designed and located so as not to spread disease to native aquatic life, establish new nonnative species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline. [Ord. 12-0334 § 3 (Exh. 1).]

16.50.050 Public boat launching facilities and marinas.

Public boat launching facilities and marinas, including docks serving more than four single-family residences, shall meet the following standards:

A. The facility shall be designed and operated so that there is no net loss of ecological function in the shoreline. Where the facility is developed in conjunction with restoration of like habitat areas, improvements in one area may be applied to mitigate impacts that would result from new facilities;

B. The streets serving the proposed facility must be adequate to accommodate traffic generated by such a facility safely and conveniently;

C. The facility shall provide adequate parking in accordance with underlying zoning requirements. Long-term parking areas shall be located away from the water. Short-term loading areas, however, may be located near berthing areas;

- D. The marina shall be sited and designed to protect rights of navigation;
- E. The marina must have provisions available for cleanup of accidental spills of contaminants;
- F. Lavatory facilities connected to a sanitary sewer and adequate to serve the marina shall be provided;
- G. Self-service sewage pumpout facilities or the best available method of disposing of sewage wastes and appropriate disposal facilities for bilge wastes shall be provided at marinas having in excess of 3,500 lineal feet of moorage or slips large enough to accommodate boats larger than 20 feet in length, and shall be located so as to be conveniently available to all boats. An appropriate disposal facility for removal of bilge wastes shall be either a vacuum apparatus, or oil-absorbent materials and waste receptacles;
- H. Untreated sewage shall not be discharged into the water at any time. Treated sewage shall not be discharged while boats are moored;
- I. Public access shall be provided in accordance with KMC [16.50.060](#);
- J. The design shall be compatible with adjacent development;
- K. Covered moorage may only be permitted for vessel repair facilities; and
- L. Extended moorage on waters of the State without a lease or permission is prohibited. [Ord. 12-0334 § 3 (Exh. 1).]

16.50.060 Public access.

Public access shall be required for public projects and development on public lands (KMC [16.45.010](#)(B)(16)), commercial and manufacturing uses (KMC [16.50.030](#)(B)(2)), boating facilities and marinas (KMC [16.50.050](#)), multifamily development (KMC [16.50.090](#)(A)(1)), and land divisions of more than four lots (KMC [16.50.090](#)(A)(2)). For development on private property, public access shall be required when such development would either generate or increase demand for public access and/or would impair existing legal access opportunities or rights.

A. Where public access is required, it shall:

1. Connect to other public and private public access and recreation facilities on adjacent parcels along Lake Washington and the Sammamish River shorelines whenever feasible;
2. Be sited to ensure public safety;
3. Be open to the general public and accessible directly from a public right-of-way or by an easement granted to the City for public access;
4. Enhance access and enjoyment of the shoreline and provide features in scale with the

development such as, but not limited to:

- a. View points;
- b. Places to congregate in proportion to the scale of the development;
- c. Benches and picnic tables;
- d. Beach or water access for boats; and
- e. Pathways for pedestrians and bicycles.

B. Where public access is required, the area dedicated and improved for public access shall be roughly proportional to the scale and character of the proposed development and its impacts.

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.

D. Public access improvements shall be designed to be compatible with the purpose and intent of the shoreline environment in which they are constructed.

E. Trails and other public access improvements are subject to the standards for recreational uses in KMC [16.65.020](#) and the vegetation management standards in KMC [16.60.020](#)(B).

F. The provisions of this section do not apply to the following:

1. Short plats of four or fewer lots;
2. Where public access is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment; or
3. Where constitutional or other legal limitations apply. [Ord. 12-0334 § 3 (Exh. 1).]

16.50.070 Recreation.

A. Recreational development in all environments must meet the following standards:

1. The construction of swimming facilities, docks, piers, moorages, buoys, floats, and launching facilities waterward of the ordinary high water mark shall be governed by the regulations relating to docks, piers, moorage, buoys, floats, or launching facility construction in KMC [16.55.050](#).
2. Swimming areas shall be separated from boat launch areas and marinas, to the maximum extent practical.
3. New or expanded swimming facilities shall only be permitted if there is an ongoing water

quality testing program guided by a monitoring plan approved by the director to ensure public safety.

4. Public access trails within the shoreline shall be regulated by the provisions of KMC [16.50.060](#).

B. In the Natural Environment, recreational uses shall meet the following standards:

1. Vehicular access, parking and restrooms 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;
2. Trails should be designed primarily for pedestrian access, including access by wheelchair where appropriate, and should be no larger than is necessary to accommodate expected pedestrian traffic;
3. Removal of vegetation for recreational uses shall be the minimum necessary to provide pedestrian access and limited visual access to the shoreline;
4. Public contact with unique and fragile areas shall be permitted where possible without destroying the natural character of the area; and
5. Viewing, studying, and recording water and nature may be accommodated by platforms, benches or shelters, consistent with public safety and security. [Ord. 12-0334 § 3 (Exh. 1).]

16.50.080 Utility facilities.

The following standards apply to utility uses within the shoreline environment:

- A. Stormwater and sewage outfalls may be permitted in shoreline environments if upland treatment and infiltration to groundwater, streams or wetlands is not feasible per WAC 173-26-020 and there is no impact on salmon migratory habitat;
- B. Water intakes shall not be permitted near fish spawning, migratory, or rearing areas;
- C. Water intakes shall comply with Washington Department of Fish and Wildlife fish screening criteria, and to the maximum extent practical, intakes shall be placed at least 30 feet waterward of the ordinary high water mark;
- D. Cable crossings for telecommunications and power lines and pipelines for oil, gas, water and other utilities shall:
 1. Use the best available technology to protect health, safety, and the environment;
 2. Be routed through sites that are already free of vegetation, such as existing roadways, or attached to existing bridges, to the greatest extent feasible;

3. Avoid critical aquatic habitat to the greatest extent feasible;
4. If crossing beneath a streambed, utilities shall be designed to avoid streambed mobilization and adverse impacts on groundwater flow, be placed in a sleeve or conduit that allows replacement without need for additional excavation, and return grades to existing or better condition that provides for normal floodwater flow; and
5. Provide mitigation for impacts to shoreline ecological functions. [Ord. 12-0334 § 3 (Exh. 1).]

16.50.085 Transportation uses.

- A. Non-water-dependent transportation uses shall be located as far landward as possible.
- B. Bridges, when necessary, should span open water and floodways.
- C. Roadways and bridges should be designed to avoid placement of fill or structures that would restrict floodplain capacity or limit channel migration. If transportation facilities are anticipated to impact floodplains or channel migration zones, mitigation sequencing as specified in Chapter 18.55 KMC shall be employed to avoid and mitigate for impacts.
- D. Construction of private bridges should be minimized, and shared access should be required whenever feasible, including when subdivision would create new lots requiring access by bridge.
- E. Transportation uses shall employ mitigation sequencing specified in Chapter 18.55 KMC to avoid and mitigate for impacts to critical areas.
- F. 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. [Ord. 12-0334 § 3 (Exh. 1).]

16.50.090 Residential uses.

- A. Public access to the shoreline shall be required for the following residential developments:
 1. Multiple-family dwelling unit developments, including mixed use developments that contain multiple-family dwelling units; and
 2. New subdivisions of more than four lots.
- B. Residential accessory uses must meet the following standards:
 1. Non-water-dependent accessory structures other than below-grade swimming pools shall be limited to a 150-square-foot footprint.
 2. Below-grade swimming pools shall be sited and designed so that they do not adversely

affect the flow of groundwater or endanger unstable slopes.

3. Accessory structures shall be sited to preserve visual access to the shoreline from adjacent properties and public rights-of-way to the maximum extent practical.

4. Non-water-dependent accessory structures and facilities such as sheds, gazebos, swimming pools, and driveways shall not be located in vegetation conservation areas described in Chapter [16.60](#) KMC.

5. Foot ramps, stairs, and paths to a dock or beach may be allowed in the vegetation conservation areas described in Chapter [16.60](#) KMC, but shall be limited to the minimum necessary to provide pedestrian access.

6. Private boat ramps serving a single residence shall not be located in vegetation conservation areas described in Chapter [16.60](#) KMC. [Ord. 12-0334 § 3 (Exh. 1).]

16.50.100 Channel migration zone on Swamp Creek.

A. The channel migration zone shall include:

1. The 500-year floodplain of Swamp Creek within shoreline jurisdiction; and
2. All area within 112.5 feet of Swamp Creek.

B. Within the channel migration zone:

1. There shall be no subdivision of land within the channel migration zone except for the purpose of creating permanent, nonbuildable open space tracts.
2. Fill shall not be allowed that impairs channel migration within the channel migration zone.
3. No new development is allowed where future stabilization, including bank stabilization as well as structural flood hazard reduction, would be necessary.
4. Existing structures can be protected but must use natural stabilization unless proven by a scientifically and technically valid study that the natural stabilization measures will not work.
5. Existing legal uses in the Swamp Creek floodplain can be repaired and maintained; provided, that such actions do not cause significant ecological impacts, increase flood hazards to other uses, and are consistent with other relevant laws.
6. Before new structural flood hazard reduction measures in shoreline jurisdiction can be approved, it must be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss of ecological function, and that appropriate vegetation

conservation actions are undertaken.

C. A project proponent may have a channel migration zone study completed by a qualified professional hydrogeologist to be reviewed by the City. If the study demonstrates that the entirety of the development property is outside of the channel migration zone, then this section will not further apply to the project. [Ord. 12-0334 § 3 (Exh. 1).]

Chapter 16.55 SHORELINE MODIFICATIONS

Sections:

[16.55.010 General shoreline modifications.](#)

[16.55.020 Interpretation of shoreline modifications table.](#)

[16.55.030 Shoreline modifications table and conditions.](#)

[16.55.040 Shoreline stabilization.](#)

[16.55.050 Docks, piers, moorage, buoys, floats or launching facilities.](#)

[16.55.060 Grading, dredging, dredge material disposal and filling.](#)

16.55.010 General shoreline modifications.

The shoreline modifications chapter shall not be used to authorize a shoreline modification that is not allowed by the underlying zoning, but may add additional restrictions or conditions or prohibit specific modifications within the shoreline jurisdiction. All shoreline modifications in the shoreline jurisdiction must comply with all relevant City code provisions and with the Kenmore Shoreline Master Program. [Ord. 12-0334 § 3 (Exh. 1).]

16.55.020 Interpretation of shoreline modifications table.

The shoreline modification table in KMC [16.55.030](#) determines whether a specific shoreline modification is allowed within each of the shoreline environments. The shoreline environment is located on the vertical column and the specific use is located on the horizontal row of the table. The specific modifications are grouped by the shoreline modification categories in WAC 173-26-231. The table should be interpreted as follows:

- A. If the letter "P" appears in the box at the intersection of the column and the row, the modification may be allowed within the shoreline environment only if the underlying zoning allows the modification.
- B. If the letter "C" appears in the box at the intersection of the column and the row, the modification may be allowed within the shoreline environment subject to the shoreline conditional use review procedures specified in Chapter [16.75](#) KMC, and only if the underlying zoning allows the modification.
- C. If a number appears in the box at the intersection of the column and the row, the modification may be allowed subject to the appropriate review process indicated in this section, the specific development conditions indicated with the corresponding number immediately following the table, and only if the underlying zoning allows the modification. If more than one number appears at the intersection of the column and row, both numbers apply.

D. If more than one letter-number combination appears in the box at the intersection of the column and the row, the modification is allowed within that shoreline environment subject to different sets of limitations or conditions depending on the review process indicated by the letter, the specific development conditions indicated in the development condition with the corresponding number in KMC [16.55.030](#)(B), and only if the underlying zoning allows the modification. [Ord. 12-0334 § 3 (Exh. 1).]

16.55.030 Shoreline modifications table and conditions.

A. Shoreline Modifications Table.

Shoreline Modifications Table					
KEY P – Permitted Modification C – Shoreline Conditional Use Required Shoreline modifications are allowed only if the underlying zoning allows the modification					
	DOWNTOWN WATERFRONT	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
Shoreline stabilization					
Shoreline stabilization, not including flood protection facilities	P1	P1	C1	C1	C1, P1
Repair or maintenance of shoreline stabilization facilities	P2	P2	P2	P2	P2
Flood	P3	P3	P3	C3	P3

protection facilities					
Piers and docks					
Docks, piers, moorage, buoys, floats or launching facilities	P4	P4	C4	C4	C4, P4
Fill					
Filling	P5, C5	P5, C5	P5, C5	C5	C5
Breakwaters, jetties, groins, and weirs					
Breakwaters, jetties, groins and weirs	C6	C6	C6	C6	C6
Grading and dredging					
Grading, dredging, dredge material disposal	P5, C5	P5, C5	P5, C5	C5	C5
Shoreline habitat and natural systems enhancement projects					
Habitat and natural systems enhancement projects	P7	P7	P7	P7	P7

B. Development Conditions (Footnotes for the Shoreline Modifications Table in Subsection A of this

Section).

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, tidal action, 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 16.90 KMC, Flood Damage Prevention, Chapter 18.55 KMC, and the Integrated Stream Protection Guidelines (Washington Departments of Fish and Wildlife, Ecology, and Transportation, 2003).

4. Docks, piers, moorage, buoys, floats or launching facilities 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.

In the Aquatic Environment, docks, piers, moorage, buoys, floats and/or launching facilities require conditional use approval, unless located adjacent to a Downtown Waterfront or Shoreline Residential Environment.

5. Excavation, dredging and filling must meet the standards in KMC [16.55.060](#). Fill placed waterward of the ordinary high water mark for any use except ecological restoration or for the maintenance and repair of flood protection facilities requires a conditional use permit. Disposal of dredged material within shorelands or wetlands within the shoreline jurisdiction requires a conditional use permit.

6. 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 director. 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.

7. 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 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. [Ord. 12-0334 § 3 (Exh. 1).]

16.55.040 Shoreline stabilization.

Shoreline stabilization may be permitted subject to the standards in this chapter, provided:

A. The applicant has demonstrated the following in order to construct new shoreline stabilization:

1. A geotechnical analysis demonstrates that erosion from waves or currents is imminently threatening and that damage is expected to occur within three years if the shoreline stabilization is not constructed;
2. The erosion rate exceeds that which would normally occur in a natural condition;
3. The erosion is not caused by upland conditions on the project site;
4. The proposed shoreline stabilization is the least hardened solution that is feasible to protect the structures or improvements, including consideration of nonstructural alternatives such as slope drainage systems, vegetative growth stabilization, and gravel berms;
5. The proposal is the minimum necessary to protect existing legally established primary structures, new non-water-dependent development, existing water-dependent development or projects for the restoration of ecological functions or hazardous substance remediation;
6. The proposed shoreline stabilization does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions; and
7. Adequate mitigation measures that maintain existing shoreline processes and critical fish and wildlife habitat will be provided that ensure no net loss or function of riparian habitat.

B. Shoreline stabilization to replace existing shoreline stabilization shall be placed landward of any existing shoreline stabilization, except that it may be placed waterward directly abutting the old

structure only in cases where the existing bulkhead was installed prior to January 1, 1992, and removal of the old structure would result in greater impact on ecological functions.

C. The maximum height of the proposed shoreline stabilization shall be no more than four feet in height on Lake Washington.

D. Shoreline stabilization shall minimize the adverse impact on the property of others to the maximum extent practical.

E. Shoreline stabilization shall not be used to create new lands.

F. Shoreline stabilization shall not interfere with surface or subsurface drainage into the water body.

G. Automobile bodies or other junk or waste material which may release hazardous substances shall not be used for shoreline stabilization.

H. Shoreline stabilization shall be designed so as not to constitute a hazard to navigation and shall not substantially interfere with visual access to the water.

I. Shoreline stabilization shall be designed so as not to create a need for shoreline stabilization elsewhere.

J. Shoreline stabilization shall comply with the Integrated Stream Protection Guidelines (Washington Departments of Fish and Wildlife, Ecology, and Transportation, 2003) and shall be designed to allow for appropriate public access to the shoreline. [Ord. 12-0334 § 3 (Exh. 1).]

16.55.050 Docks, piers, moorage, buoys, floats or launching facilities.

A. Any dock, pier, moorage, buoy, float or launching facility authorized by this chapter shall not interfere with navigation.

B. Any dock, pier, moorage, buoy, float or launching facility authorized by this chapter shall be subject to the following requirements:

1. Docks, piers, moorage, buoys, floats or launching facilities shall not exceed the minimum size necessary to serve the use for which they are designed (see KMC [16.55.030\(B\)\(4\)](#)).
2. Docks, piers, moorage, buoys, floats or launching facilities serving more than four single-family residences must also meet the standards in KMC [16.50.050](#).
3. Only joint use boat lift, dock, pier, moorage, buoys, float or launching facilities may be permitted for multiple-family dwelling unit development proposals.
4. Only one boat lift, dock, pier, moorage, buoy, float and launching facility may be permitted for each parcel developed with a single detached residential unit and only if the applicant demonstrates there is no other feasible option for shared use facilities. However, installation

or retention of additional watercraft lifts beyond one, without a canopy, at a single residential use waterfront structure is allowed. A maximum of three lifts are allowed at a single residential use overwater structure. However, only two lifts can be ground-based; all other lift(s) must be floating or suspended lift(s).

5. Only joint use docks or piers are allowed on lots with less than 50 feet of waterfront except when lots abutting both sides of the subject lot already have a dock or pier.

6. The only structures permitted in the first 30 feet waterward of the ordinary high water mark are piers and ramps. All floats and ells must be at least 30 feet waterward of the ordinary high water mark.

7. No skirting is allowed on any structure.

8. Surface coverage (includes all overwater portions of the floats, ramps, and ells) shall be limited as follows:

a. Moorage facilities serving only one residential waterfront lot shall not exceed 480 square feet;

b. Moorage facilities serving two residential waterfront lots shall not exceed 700 square feet; and

c. Moorage facilities serving three or more residential waterfront lots shall not exceed 1,000 square feet.

9. To protect anadromous salmon habitat, the following shall apply:

a. Docks with configurations that do not include any or all of the following elements shall be subject to the overall length and square footage limitations of this section and no portion of the dock shall exceed four feet in width, unless allowed in this subsection;

b. Piers shall not exceed four feet wide and shall be fully grated;

c. Ramps shall not exceed three feet wide and shall be fully grated;

d. Ells are allowed only over water with depths of nine feet or greater at the landward end of the ell; ells may be up to six feet wide by 20 feet long with a two-foot-wide strip of grating down the center; or ells may be up to six feet wide by 26 feet long with grating over the entire ell;

e. Floats are allowed only over water with depths of 10 feet or greater at the landward end of the float; and floats may be up to six feet wide by 20 feet long with a two-foot-wide strip of grating down the center;

- f. In no case may any moorage facility extend more than 150 feet waterward of the ordinary high water mark;
 - g. The first (nearest shore) piling shall be steel, four-inch piling and at least 18 feet waterward of the ordinary high water mark. Piling sets beyond the first are not required to be steel, shall be spaced at least 18 feet apart and shall not be greater than 12 inches in diameter;
 - h. Piles shall not be treated with pentachlorophenol, creosote, chromated copper arsenate or comparably toxic compounds. If ammoniacal copper zinc arsenate pilings are proposed, the applicant will meet all of the best management practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers; and
 - i. When steel piles are installed, approved sound attenuation measures must be used.
10. Existing habitat features (e.g., large and small woody debris, substrate material, etc.) shall be retained and new or expanded moorage facilities placed to avoid disturbance of such features.
11. Invasive aquatic weeds may be removed with nonchemical means only, except that milfoil may be removed using chemicals; provided, that the chemicals are applied by a licensed applicator and approved for aquatic use.
12. In order to mitigate the impacts of new or expanded commercial moorage facilities, the applicant shall plant emergent vegetation (if site-appropriate) and a buffer of vegetation a minimum of 10 feet wide along the entire length of the lot immediately landward of the ordinary high water mark. Planting shall consist of native shrubs and trees and, when possible, emergent vegetation. At least five native trees will be included in a planting plan containing one or more evergreen trees and two or more trees that like wet roots (e.g., willow species) per every 100 lineal feet of shoreline. Such planting shall be monitored for a period of five years according to an approved monitoring plan. This subsection is not intended to prevent reasonable access through the shoreline critical area buffer to the shoreline, or to prevent recreational use of the shoreline critical area. This requirement may be waived or reduced for water-dependent transportation uses where it is demonstrated that vegetation could result in safety or navigation hazards.
13. No private moorage or other structure waterward of the ordinary high water mark, including structures attached thereto, shall be closer than 12 feet to any adjacent property line except when there is a mutual agreement of adjoining property owners. Excepted from the requirements of this section are boat lifts or portions of boat lifts that do not exceed 30 inches in height measured from the ordinary high water mark.

14. Proposals to repair existing legally established moorage facilities where the nature of the repair is not described in KMC [16.55.030](#) shall be considered minor repairs and are permitted, consistent with any applicable standards of this title, KMC Title 18 and any other applicable codes or regulations.

15. No covered boat lift, dock, pier, covered moorage, covered float, or other covered structure is permitted waterward of the ordinary high water mark, except as provided below:

a. Submerged, free-standing mechanical boat lifts associated with single detached residential docks or piers and recreational watercraft may be covered with a canopy, provided:

- (1) No canopy shall be more than 25 feet in length or wider than 15 feet;
- (2) No portion of the canopy shall exceed a height of 12 feet above the ordinary high water mark;
- (3) The canopy shall at no time have any side partly or wholly enclosed;
- (4) The highest portion of the canopy shall be located below the lowest grade point on the waterward side of the existing homes on surrounding properties;
- (5) Canopies shall be made out of canvas or other such nontoxic materials;
- (6) Canopies shall be of a translucent material to allow light transmission;
- (7) The total overwater coverage of the piers, floats, ramps, ells, and canopy for a single-family residence with a single-use moorage shall not exceed 600 square feet; and
- (8) Only one boat lift canopy per single detached residence shall be allowed.

b. Covered moorage may be provided for commercial boat repair facilities.

16. No dwelling unit may be constructed on a dock or pier.

17. Buoys shall meet the following conditions:

- a. Buoys shall not impede navigation;
- b. The use of buoys for moorage of recreational and commercial vessels is preferred over pilings or float structures;
- c. Buoys shall be located and managed in a manner that minimizes impacts to aquatic habitat;

d. No more than four buoys per acre are allowed.

C. Proposals that do not meet the requirements of subsection (B)(6), (B)(8), (B)(9) or (B)(15) of this section and that are designed to support a commercial or manufacturing water-dependent use, or to provide public access, or to serve residential uses, may be considered by the director. For any alternative proposal, the applicant must demonstrate that the proposed deviation is the minimum necessary to meet the needs of the specific use proposed, and provides an equal or greater degree of protection of ecological functions and anadromous species habitat than would strict adherence to the standards. For purposes of meeting this requirement, the director will review the required habitat management plan to determine whether the project is adequately protective. [Ord. 12-0334 § 3 (Exh. 1).]

16.55.060 Grading, dredging, dredge material disposal and filling.

Grading, dredging, dredge material disposal and filling must be consistent with Chapter 16.90 KMC and may be permitted in shorelines only as follows:

A. Fill may be permitted below the ordinary high water mark only:

1. When necessary to support a water- dependent use;
2. To provide for public access;
3. When necessary to mitigate conditions that endanger public safety, including flood risk reduction projects;
4. To allow for cleanup and disposal of contaminated sediments as part of an interagency environmental cleanup plan;
5. To allow for the disposal of dredged material considered suitable under, and conducted in accordance with, the dredged material management program of the Washington Department of Natural Resources;
6. For expansion or alteration of transportation or utility facilities currently located on the shoreline and then only upon demonstration that alternatives to fill are not feasible; or
7. As part of mitigation actions, environmental restoration projects and habitat enhancement projects.

B. Grading, dredging, and filling shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration, and mitigation shall employ the mitigation sequence in KMC 18.55.210.

C. Dredging and dredged material disposal below the ordinary high water mark shall be permitted only:

1. When necessary for the operation of a water-dependent use;
 2. When necessary to mitigate conditions that endanger public safety or fisheries resources;
 3. For establishing, maintaining, expanding, relocating or reconfiguring navigation channels and basins when necessary to ensure safe and efficient accommodation of existing navigation uses when:
 - a. Significant ecological impacts are minimized;
 - b. Mitigation is provided, employing the mitigation sequence in KMC 18.55.210; and
 - c. Dredging is maintained to the existing authorized location, depth and width;
 4. For restoration projects associated with implementation of the Model Toxics Control Act or the Comprehensive Environmental Response, Compensation, and Liability Act; or any enhancement or restoration project;
 5. For flood risk reduction projects conducted in accordance with Chapter 16.90 KMC.
- D. Dredging is not allowed waterward of the ordinary high water mark for the primary purpose of obtaining fill material.
- E. Disposal of dredged material shall be done only in approved upland disposal sites and is not allowed within critical areas or their buffers.
- F. Stockpiling of dredged material in or under water is prohibited.
- G. In order to ensure that operations involving dredged material disposal and maintenance dredging are consistent with the Shoreline Master Program as required by RCW 90.58.140(1), no dredging may commence in any shoreline environment without the responsible person having first obtained either a substantial development permit or a statement of exemption. A statement of exemption or shoreline permit is not required prior to emergency dredging needed to protect property from imminent damage by the elements if a statement of exemption or substantial development permit is subsequently obtained following the procedures in Chapter [16.75](#) KMC.
- H. The removal of gravel for flood management is allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution. [Ord. 12-0334 § 3 (Exh. 1).]

Chapter 16.60
VEGETATION CONSERVATION

Sections:

[16.60.010 Vegetation conservation areas.](#)

[16.60.020 Vegetation management within critical areas.](#)

[16.60.030 Vegetation management within Lake Washington shoreline buffers.](#)

16.60.010 Vegetation conservation areas.

A. Shoreline buffers shall be considered vegetation conservation areas in which existing native vegetation is retained, unless removal is specifically allowed in this chapter or it can be demonstrated that another management approach would provide equal or better protection for shoreline ecological processes and functions. Nonnative vegetation may be retained unless otherwise required to be replaced as part of an enhancement associated with development or expansion of development on the property.

B. Native and nonnative trees determined by the City to be hazardous or diseased may be removed. Selective pruning for safety and view protection is allowed, provided pruning is conducted in a manner that minimizes harm to the health of the trees being pruned.

C. Nonnative vegetation may be removed as part of a restoration or enhancement project if replacement plantings will provide greater benefit to shoreline ecological processes than would be provided by strict application of this chapter.

D. Landscaping plans for shoreline buffers associated with shoreline development regulated under the shoreline code must be prepared by a landscape architect or certified professional wetland scientist. Landscaping plans are not required for normal maintenance, including maintenance of existing nonconforming landscaping that complies with KMC [16.75.050](#).

E. Landscaping plans for shoreline buffers should avoid adverse impacts on existing public views of the shoreline.

F. Vegetation management in shorelines shall be consistent with the requirements for grading permits under Chapter 15.25 KMC. If there is a conflict between this chapter and Chapter 15.25 KMC, the more restrictive standards shall apply.

G. When considering compensatory habitat enhancement as mitigation for impacts from new structures, such as when a reduced buffer or a nonwater-dependent use is requested, the enhancement should be proportional to the degree of impact of the new structure on shoreline ecological functions, and take into account the degree to which the existing buffer has already been compromised. Enhancement should focus on restoring ecological functions that are most critical and that have been most diminished in the Kenmore shoreline. In approving any compensatory

habitat enhancement plan, the director shall consider the changes in surface water runoff rates and water quality (such as through increased impervious area), habitat structure (such as loss or alteration of vegetation), and habitat quality (such as from lighting, noise, or activities) that the project would cause. Enhancements should generally focus on offsetting these impacts but may focus on restoring other critical ecological functions in the shoreline that have been lost or diminished (such as placement of large woody debris in water or restoring shallow water habitat). The director may determine whether an enhancement that provides a broader benefit may be substituted for one that would offset the impacts of an individual project. The director may deny a request to allow intrusion into a buffer or for development of a non-water-dependent use if the enhancement proposed does not fully mitigate the impacts of the project or provide a sufficient broader benefit. [Ord. 12-0334 § 3 (Exh. 1).]

16.60.020 Vegetation management within critical areas.

A. Vegetation management standards established in KMC 18.55.150(A)(5), 18.55.320(F)(5) and (6), 18.55.520(A)(2)(d) and (G), 18.55.530 and 18.55.650(A)(5) for critical areas and their buffers shall apply within all shorelines.

B. Vegetation management standards established in KMC 18.55.420 for streams and their buffers shall apply within Sammamish River and Swamp Creek shorelines. In addition to provisions for recreational uses in KMC [16.65.020](#) allowing limited modifications to critical area buffers for the purposes of public access improvements, the following standards shall apply in shorelines:

1. In Swamp Creek Park, public access trails may be located within critical areas and required buffers, when planned along with a habitat restoration project and it is demonstrated that the ecological functions of the overall standard stream buffer area would be substantially improved. Trails in Swamp Creek Park roughly paralleling the shoreline of the Sammamish River or Swamp Creek shall generally be located at least 50 feet from the ordinary high water mark, but trails may extend closer to the water if necessary to reduce impacts on critical areas or adjacent properties, or access a pedestrian bridge across Swamp Creek. Spur trails may be extended to the water's edge but such access areas should be limited in order to protect ecological functions of the stream buffer and wetlands.

2. When public access is being provided as a part of mixed use development allowed in the Urban Conservancy Environment under KMC [16.50.030](#)(B)(2)(a)(2), the director may allow public access trail development within the buffer in order to link with adjacent shoreline access, provided any new trail is farther from the shoreline than the waterward extent of existing development on the site and the proposed trail plan is accompanied by a plan demonstrating that the ecological functions of the overall required buffer area on a project site would be substantially improved. [Ord. 12-0334 § 3 (Exh. 1).]

16.60.030 Vegetation management within Lake Washington shoreline buffers.

A. Vegetation removal within lake shoreline buffers is prohibited in the Shoreline Residential, Urban

Conservancy, and Natural Shoreline Environments along Lake Washington unless the activity is part of a shoreline restoration or enhancement project or the vegetation removal is otherwise specifically allowed under Chapter [16.50](#) or [16.55](#) KMC.

B. Vegetation clearing for permitted water-dependent uses is allowed in the Downtown Waterfront Environment. Such vegetation clearing must occur only in the minimum shoreline area that is necessary to support the permitted water-dependent use. [Ord. 12-0334 § 3 (Exh. 1).]

Chapter 16.65
SHORELINE DENSITY AND DIMENSIONS

Sections:

[16.65.010 Interpretation of shoreline density and dimensions table.](#)

[16.65.020 Shoreline density and dimensions table and development conditions.](#)

16.65.010 Interpretation of shoreline density and dimensions table.

A. The shoreline density and dimensions table in KMC [16.65.020](#) establishes the shoreline standards within each of the shoreline environments. The shoreline environment is located on the vertical column and the density and dimensions standard is located on the horizontal row of the table. The table should be interpreted as follows:

1. If the cell is marked with a "Z" in the box at the intersection of the column and the row, the shoreline does not impose a specific buffer requirement on that use, although the standards for the underlying zoning apply. In some cases, no standard is provided because the use is prohibited under Chapter [16.50](#) KMC.
2. If the cell has a number in the box at the intersection of the column and the row, that number is the density or dimension standard for that shoreline environment.
3. If the cell has a parenthetical number in the box at the intersection of the column and the row, that parenthetical number identifies specific conditions listed in KMC [16.65.020](#)(B) that are related to the density and dimension standard for that environment.

B. The density and dimensions enumerated in this section apply to any lot within the shoreline jurisdiction. If there is a conflict between the density and dimension standards in this section and the underlying zoning regulations, the more restrictive standard shall apply.

C. For development in critical areas and critical area buffers, the applicable provisions of Chapter 18.55 KMC apply unless a specific exception is provided in the shoreline code.

1. Because Lake Washington, the Sammamish River, and Swamp Creek are all fish and wildlife habitats of importance, a habitat management plan is required for any in-water or overwater development or activity, per KMC 18.55.520.
2. Within the shoreline jurisdiction, the required acreage replacement ratios for wetlands shall be as follows:

Wetland Mitigation Ratios

Category and Type	Creation or Reestablishment	Creation (C) or Reestablishment (R) plus	Enhancement (E)
-------------------	-----------------------------	--	-----------------

of Wetland	(C/R)	Enhancement (E)	Only
Class 1	3:1	1:1 C/R plus 6:1 E	Not Allowed
Class 1 (Mature Forested)	6:1	1:1 C/R plus 20:1 E	Not Allowed
Class 2	2:1	1:1 C/R plus 4:1 E	Not Allowed
Class 3	1.5:1	1:1 C/R plus 2:1 E	6:1

[Ord. 12-0334 § 3 (Exh. 1).]

16.65.020 Shoreline density and dimensions table and development conditions.

A. Shoreline Density and Dimensions Table.

Shoreline Density and Dimensions Table

	DOWNTOWN WATERFRONT	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
Standards					
Shoreline Buffers from OHWM on Lake Washington					
Water-dependent commercial development	20 ft (1)	Z	115 ft (1)	Z	0
Water-related commercial development	20 ft (1)	Z	115 ft (1)	Z	0
Non-water-dependent and non-water-related commercial development	50 ft (1)	Z	150 ft	Z	Z
Government services	20 ft (6)	20 ft (6)	20 ft (6)	20 ft (6)	0
Single-family residential development	Z	25 ft (2)	115 ft (2)	150 ft (2)	Z
Multifamily residential	50 ft	75 ft	115 ft	Z	Z

development					
Water-dependent and water-related manufacturing and industrial use	20 ft (1) (3)	Z	115 ft (1) (3)	Z	0
Non-water-related manufacturing and industrial use	50 ft	Z	Z	Z	Z
Parks and recreation	50 ft (4)	75 ft (4)	115 ft (4)	115 ft (4)	0
Accessory surface parking	100 ft	100 ft	115 ft	150 ft	0
Utilities and regional land uses	50 ft (5)	75 ft (5)	115 ft (5)	115 ft (5)	Z
Building Setback from the Shoreline Buffer					
Single-family uses	15 ft	25 ft (2)	15 ft	15 ft	Z
All uses except single-family uses	15 ft	15 ft	15 ft	15 ft	Z
Building Height					
Base height	35 ft	35 ft	35 ft	30 ft	35 ft
Additional height allowed when permitted in underlying zoning	Yes (7)	Yes (7)	Yes (7)	No	No

B. Development Conditions (Footnotes to Shoreline Density and Dimensions Table in Subsection A)

of This Section).

1. New water-dependent uses may be allowed within a shoreline buffer only if impacts are mitigated consistent with the requirements in KMC 18.55.190 through 18.55.220, 18.55.330 and 18.55.430 such that there is no net loss of shoreline ecological processes or functions. The director may allow non-water-dependent uses within the shoreline buffer along the inner harbor portion of the Downtown Waterfront area at the northeast end of Lake Washington, only if:

- a. The uses are developed in conjunction with a public access promenade adjacent to the water; and
- b. The uses do not interfere with public access or preclude the use of the shoreline for water-dependent uses; and
- c. Mitigation is provided consistent with the requirements in KMC 18.55.190 through 18.55.220, 18.55.330 and 18.55.430 such that there is no net loss of shoreline ecological processes or functions.

2. Single-family residential development shall provide buffers and setbacks as follows:

a. On Lake Washington in Shoreline Residential areas:

- (1) A minimum shoreline buffer of 25 feet from the ordinary high water mark shall be provided as a vegetation conservation area.
- (2) The minimum building setback of 25 feet from the shoreline buffer may be reduced to five feet if vegetation in the required buffer is reestablished or enhanced, according to the standards in KMC [16.60.010\(G\)](#).

b. On Lake Washington in Urban Conservancy areas:

- (1) A minimum buffer of 115 feet from the ordinary high water mark shall be provided as a vegetation conservation area.
- (2) A minimum building setback of 15 feet from the shoreline buffer shall be provided.

c. On Lake Washington in Natural areas:

- (1) A minimum buffer of 150 feet from the ordinary high water mark shall be provided as a vegetation conservation area.
- (2) A minimum building setback of 15 feet from the shoreline buffer shall be provided.

d. On all other shorelines, single-family development shall provide a buffer as required by

the provisions of Chapter 18.55 KMC. Buffers may be reduced to the specified minimum setbacks in this table only if the reduced buffers are allowed by the provisions of Chapter 18.55 KMC.

3. Outdoor storage for water-dependent manufacturing and industrial uses must be at least 20 feet from the ordinary high water mark in the Downtown Waterfront Environment and is prohibited in all other environments.

4. New public access improvements shall comply with the requirements of Chapter 18.55 KMC; provided, that new public access improvements may be allowed within critical areas, or shoreline or critical area buffers, if impacts are mitigated consistent with the requirements in KMC 18.55.190 through 18.55.220, 18.55.330 and 18.55.430 such that there is no net loss of shoreline ecological processes or functions, and the public access improvements meet the following standards:

a. In order to encourage public access improvements and improved shoreline habitat in the Downtown Waterfront shoreline, a public access trail may be located within the stream buffer required in KMC 18.55.420, when accompanied by a plan demonstrating that the ecological functions of the overall required buffer area on a project site would be substantially improved. Trails paralleling the shoreline of the Sammamish River in the Downtown Waterfront Environment shall be located at least 50 feet from the ordinary high water mark. Spur trails may be extended to the water's edge but such access areas should be limited in order to protect ecological functions of the buffer.

b. In order to allow for a waterfront promenade area along the inner harbor area of the Downtown Waterfront Environment, public access improvements may extend to the water's edge when accompanied by a plan demonstrating that the ecological functions of the overall required buffer area on a project site would be substantially improved.

5. Underground utilities are allowed in the shoreline buffer.

6. Only water-dependent government service uses are allowed and such uses may require development in the buffer. If, through mitigation sequencing per KMC 18.55.210, impacts to the buffer are found to be unavoidable, the buffer may be reduced, provided there is no net loss of ecological functions.

7. Additional height may be permitted under the following conditions:

a. The structures would not obstruct the view of a substantial number of residences; and

b. The structures are located in an area designated on Map 1, Shoreline Environment Designations (attached to Ord. 12-0334 as Exhibit 2, and incorporated by reference), as allowing these additional heights; and

- c. The structure height complies with the allowable height of the underlying zone and the following additional height limits within the shoreline; and
- d. The additional height of the structures would not impair the ecological functions of the stream, lake, wetland, or the required buffer. In particular, the effects of shading and light impacts on the viability of vegetation in the buffer shall be considered when making this determination; and
- e. Be outside of the floodway in effect at the time of permit application; and
- f. Not be within a wetland or wetland buffer as regulated by Chapter 18.55 KMC.

Distance from Structure to Ordinary High Water Mark	Maximum Height Allowed Area H-1	Maximum Height Allowed Area H-2	Maximum Height Allowed Areas H-3 and H-4
Less than 50 feet	35 feet	35 feet	35 feet
50 to 100 feet	50 feet	45 feet	35 feet
100 to 112.5 feet	50 feet	75 feet	35 feet
112.5 to 200 feet	50 feet	75 feet	65 feet

The burden to demonstrate that the proposal meets the criteria of this section is on the applicant. The director may require technical studies as necessary to demonstrate compliance. [Ord. 12-0334 § 3 (Exh. 1).]

Chapter 16.70 SUBDIVISIONS

Sections:

[16.70.010 Subdivisions.](#)

16.70.010 Subdivisions.

A. Any legally created, existing lot that does not comply with the density and dimensions standards of Chapter [16.65](#) KMC and KMC Title 18 and that is located wholly or partially within the shorelines of the State shall be subject to the following provisions:

1. If the adjoining property is not under the same ownership as such lot, then the lot shall be considered a separate building site; and
2. If the adjoining property is under the same ownership as such lot, then the lot shall not be considered a separate building site until the lot is combined with adjoining property under the same ownership in such a way as to comply with the density and dimensions standards of Chapter [16.65](#) KMC and KMC Title 18.

B. Submerged land within the boundaries of any waterfront parcel shall not be used to compute lot area, lot dimensions, yards, recreation space or other similar required conditions of land subdivision or development, except, where specifically authorized by ordinance, such lands may be used in area computations as an incentive to encourage common open space waterfront areas.

C. All newly created lots wholly or partially within the shoreline shall be of uniform size and dimension, whenever possible.

D. Subdivision of more than four lots shall provide an improved and maintained pedestrian easement to the shoreline that is of sufficient width to ensure usable public access. The public access to the shoreline shall be in conformance with the standards in KMC [16.50.060](#).

E. Subdivisions should be designed to locate structures outside the shoreline jurisdiction whenever feasible. When lots are located within the shoreline jurisdiction, the size and shape of the lots should allow for the construction of residential units that are outside of required buffers and setbacks and that do not require shoreline stabilization.

F. Subdivision of a waterfront lot for the purposes of creating a lot for a non-water-dependent use that would not otherwise be allowed is prohibited. [Ord. 12-0334 § 3 (Exh. 1).]

Chapter 16.75 PROCEDURES

Sections:

[16.75.005 Additional administrative procedures.](#)

[16.75.010 Substantial development – Permit required – Exemption.](#)

[16.75.020 Permits – Prerequisite to other permits.](#)

[16.75.025 Permits – Reasonable accommodation.](#)

[16.75.030 Permits – Variance.](#)

[16.75.040 Permits – Conditional use.](#)

[16.75.050 Alteration or reconstruction of nonconforming use or development.](#)

[16.75.060 Permits – Combined hearing authority.](#)

[16.75.070 Permits – Approval or disapproval – Notification – Additional conditions – Limitations.](#)

[16.75.080 Appeals.](#)

[16.75.090 Rules of director.](#)

[16.75.100 Enforcement.](#)

[16.75.110 Shoreline environment redesignation.](#)

[16.75.120 Redesignation applications.](#)

[16.75.130 Redesignation initiated by motion.](#)

[16.75.140 Frequency of consideration of shoreline redesignations.](#)

[16.75.150 Shoreline redesignation and site-specific land use map amendment or zone reclassification.](#)

[16.75.160 Criteria for hearing examiner review.](#)

16.75.005 Additional administrative procedures.*

In addition to the requirements of Chapter 19.25 KMC, the following administrative procedures apply to development in the shoreline jurisdiction. [Ord. 12-0334 § 3 (Exh. 1).]

*Code reviser's note: The code section number for this text has been assigned editorially.

16.75.010 Substantial development – Permit required – Exemption.

A. No development shall be undertaken by any person within the shoreline jurisdiction unless such development is consistent with the policies of RCW 90.58.020 and the Shoreline Master Program. Development within the shoreline jurisdiction shall conform to the Shoreline Master Program whether or not the development requires a permit from the City of Kenmore.

B. A substantial development permit shall be required for all proposed uses and modifications unless the proposal is specifically exempt from the definition of substantial development in RCW 90.58.030 and WAC 173-27-040 or is exempted by RCW 90.58.140.

C. Any person claiming exception from the permit requirements of this chapter as a result of the exemptions described in subsection B of this section may be required to submit an application to the director for such an exemption in the manner prescribed by the director. A person requesting an exemption shall provide a written statement of exemption for activities that are exempt from the substantial development permit requirement in subsection B of this section when:

1. WAC 173-27-050 applies; or
2. The activity will occur waterward of the ordinary high water mark.

D. Whether or not a written statement of exemption is required, all permits issued for development activities within the shoreline jurisdiction shall include a record of review indicating compliance with the City of Kenmore Shoreline Master Program.

E. Conditions of approval may be attached to the approval of substantial development permits, statements of exemptions, or exempted developments as necessary to ensure consistency of the project with the City of Kenmore Shoreline Master Program. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.020 Permits – Prerequisite to other permits.

In the case of development subject to the permit requirements of this title, Kenmore shall not issue any other permit for such development until such time as approval has been granted pursuant to this title. Any development subsequently authorized by Kenmore shall be subject to the same terms and conditions which apply to the development authorized pursuant to this title, in addition to any other terms or conditions required for the subsequent authorization. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.025 Permits – Reasonable accommodation.

The Federal Fair Housing Act requires that reasonable accommodations be made in rules, policies, practices, or services, when such accommodations may be necessary to afford handicapped people equal opportunity to use and enjoy a dwelling. The director is therefore authorized to make accommodations in the provisions of this title as applied to dwellings occupied or to be occupied by handicapped persons as defined in the Federal Fair Housing Act, when the director determines that such accommodations reasonably may be necessary in order to comply with such Act. [Ord. 12-

0334 § 3 (Exh. 1).]

16.75.030 Permits – Variance.

A. The director is authorized to grant a variance from the performance standards of the City of Kenmore Shoreline Master Program only under the conditions enumerated in WAC 173-27-170 (Review Criteria for Variance Permits). Shoreline variance permits are also subject to review and approval by the Washington Department of Ecology (RCW 90.58.140(10)). The purpose of a variance permit is limited to granting relief from development standards set forth in the City of Kenmore Shoreline Master Program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the City of Kenmore Shoreline Master Program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

B. A variance from City zoning code requirements shall not be construed to mean a variance from the City of Kenmore Shoreline Master Program use or development regulations and vice versa.

C. Shoreline variances may not be used to permit a use that is specifically prohibited in Chapter [16.50 KMC](#).

D. The burden of proving that a proposed variance meets the requirements of subsections A through C of this section shall be on the applicant; absence of such proof shall be grounds for denial of the application.

E. The fee which shall accompany an application for a shoreline variance shall be as adopted by resolution. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.040 Permits – Conditional use.

A. The director is authorized to issue shoreline conditional use permits only under the conditions enumerated in RCW 90.58.140 and 90.58.143 and WAC 173-27-160. Conditional use permits are also subject to review and approval by the Washington Department of Ecology (RCW 90.58.140(10)).

B. The burden of proving that a proposed shoreline conditional use meets the criteria enumerated in WAC 173-27-160 shall be on the applicant. Absence of such proof shall be grounds for denial of the application; provided, however, that the director is authorized to determine and impose, on a case-by-case basis, those conditions and standards which may be required to enable any proposed shoreline conditional use to satisfy the criteria established in WAC 173-27-160. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.050 Alteration or reconstruction of nonconforming use or development.

A. The review of applications for the modification of a nonconforming use or development shall be subject to the regulations enumerated in KMC 18.100.020 through 18.100.060, and 18.100.080 through 18.100.087, except that a nonconforming bulkhead may be replaced with a new bulkhead;

provided, that:

1. The reconstructed bulkhead does not create new dry land; and
2. At least 40 percent of the bulkhead is replaced with a pocket cove or beach; and
3. The proposed reconstruction would substantially reduce the impacts of the existing structure on shoreline ecological functions; and
4. The project would not cause adverse impacts on adjacent shoreline uses.

B. Existing legal uses as defined under KMC 18.20.965 are considered existing legal uses within the shoreline jurisdiction.

C. Expansion of a nonconforming use or structure may be approved through the provisions of KMC [16.75.040](#) when the applicant demonstrates the following:

1. The project would substantially reduce the impacts of the existing use or structure on shoreline ecological functions; and
2. The proposed expansion would not cause adverse impacts on adjacent shoreline uses.
3. For a nonconforming structure located on land, any waterward expansion of the structure into the required setback would be offset by removal of another nonconforming structure of equal or greater footprint area in the shoreline setback, and the shoreline setback area would be restored with native riparian vegetation.

D. Expansion of a nonconforming dock may be allowed by the director when the applicant demonstrates the following:

1. The existing nonconformance results from noncompliance with the standards in KMC [16.55.050](#)(B)(6), (B)(8), (B)(9) or (B)(15); and
 2. The proposed expansion meets all other applicable standards in KMC [16.55.050](#); and
 3. The proposed expansion would not increase the existing overwater coverage of the dock to more than the existing condition or by the limits established in KMC [16.55.050](#)(B)(8), whichever is greater; and
 4. The project would reduce the impacts of the existing dock on critical fish habitat as demonstrated through the habitat management plan for the development; and
 5. The proposed expansion would not cause adverse impacts on adjacent shoreline uses.
- [Ord. 12-0334 § 3 (Exh. 1).]

16.75.060 Permits – Combined hearing authority.

A. In those cases when proposed development under the jurisdiction of this title also requires a Type 3 or Type 4 decision and a public hearing before the hearing examiner is required, the department shall issue a recommendation on the proposal, and the examiner shall conduct a public hearing to receive evidence relating to the issuance of a substantial development permit or exemption therefrom, a shoreline management conditional use permit and/or a shoreline management variance, if applicable.

B. The examiner shall conduct the hearing in accordance with the provisions of Chapter 19.30 KMC and shall exercise the powers therein.

C. The decision of the examiner shall be the decision of the director and shall be the final decision of the City with regard to shoreline management. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.070 Permits – Approval or disapproval – Notification – Additional conditions – Limitations.

A. In granting or extending a permit, the director may attach thereto conditions, modifications, or restrictions regarding the location, character and other features of the proposed development and related development and activity outside of the shoreline as necessary to make the permit compatible with the criteria set forth in KMC [16.05.030](#) and [16.75.010](#). Such conditions may include a requirement to post a performance bond assuring compliance with permit requirements, terms and conditions.

B. Issuance of a substantial development permit does not constitute approval pursuant to any other federal, State or City laws or regulations. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.080 Appeals.

A. Appeals from the final decision of the City with regard to shoreline management shall be governed solely by the provisions of RCW 90.58.180, which shall prevail over any conflicting appeal procedures set forth in Chapter 19.25 KMC.

B. The effective date of the City's decision shall be the date of receipt with the Department of Ecology as defined in RCW 90.58.140.

C. When a hearing and decision have occurred pursuant to KMC [16.75.060](#) and the examiner's recommendation with regard to disposition of a proposed development pursuant to KMC Titles 18 and 19 requires city council action, the final decision of the City pursuant to this title shall be effective on the date of receipt as defined in RCW 90.58.140 for the purposes of appeal as provided in RCW 90.50.140. However, no development may occur until the city council has taken final action on the examiner's recommendation required by KMC Titles 18 and/or 19. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.090 Rules of director.

The director is authorized to adopt such rules as are necessary and appropriate to implement this chapter. The director may prepare and require the use of such forms as are necessary to its administration. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.100 Enforcement.

A. The director is authorized to enforce the provisions of this title, the ordinances and resolutions codified in it, and any rules and regulations promulgated thereunder pursuant to the enforcement and penalty provisions of Chapter 1.20 KMC.

B. Any person found to have willfully engaged in activities on the shorelines of the State in violation of this title or Chapter 90.58 RCW or in violation of the Kenmore Shoreline Master Program, or rules or regulations adopted pursuant thereto, is guilty of a gross misdemeanor, and shall be punished by a fine of not less than \$25.00 nor more than \$1,000, or by imprisonment for not more than 90 days, or by both fines and imprisonment; provided, that the fine for the third and all subsequent violations in any five-year period shall be not less than \$500.00 nor more than \$10,000.

C. The director shall bring such injunctive, declaratory, or other actions as are necessary to ensure that no uses are made of the shorelines of the State in conflict with the provisions of this title or Chapter 90.58 RCW or in conflict with the Shoreline Master Program, or rules or regulations adopted pursuant thereto, and to otherwise enforce the provisions of this chapter and Chapter 90.58 RCW.

D. Any person subject to the regulatory provisions of this title who violates any provision of this title or the provisions of a permit issued pursuant thereto shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area, within a reasonable time, to its condition prior to such violation. The director shall bring suit for damages under this subsection on behalf of the City. Private persons shall have the right to bring suit for damages under this subsection on their own behalf and on behalf of all persons similarly situated. The court on its discretion may award attorney's fees and costs of the suit to the prevailing party. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.110 Shoreline environment redesignation.

A. Shoreline environments designated by the Shoreline Master Program may be redesignated by the city council upon finding that such a redesignation will be consistent with the standards in KMC [16.75.160](#) and the requirements of WAC 173-26-100 and 173-26-110. A shoreline redesignation may be initiated by an applicant or by motion of the council and requires Department of Ecology approval.

B. A redesignation initiated by an applicant shall be made on forms and processed in a manner prescribed in KMC [16.75.120](#). A redesignation initiated by the council shall follow the process in KMC [16.75.130](#).

C. The fee which shall accompany an application for a shoreline redesignation shall be as adopted by resolution.

D. The departmental report and recommendation regarding an application or a site-specific redesignation initiated by council motion shall be forwarded to the hearing examiner for consideration together with all relevant testimony at a public hearing to be held consistent with the procedures for a zone reclassification as provided in Chapter 19.30 KMC. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.120 Redesignation applications.

A. A redesignation initiated by an applicant, as described in KMC [16.75.110\(B\)](#), must follow the procedures in Chapters 19.25 and 19.30 KMC for shorelines redesignations and must include the following information in addition to the requirements in Chapter 19.25 KMC:

1. Applicant information, including signature, telephone number and address;
2. The applicant's interest in the property, such as owner, buyer or consultant;
3. Property owner concurrence, including signature, telephone number and address;
4. A property description, including parcel number, property street address and nearest cross street;
5. A county assessor's map outlining the subject property;
6. Related or previous permit activity;
7. A description of the proposed shorelines redesignation;
8. A mitigation plan providing for significant enhancement of the first 100 feet adjacent to the shoreline and improved habitat for species declared as endangered or threatened under the Endangered Species Act, to the extent that the impacts of development can be determined at the time of the proposed shoreline redesignation; and
9. A discussion of how the proposed shoreline redesignation meets the criteria in KMC [16.75.160](#).

B. The examiner shall make a recommendation to the council based on the criteria for review in KMC [16.75.160](#). [Ord. 12-0334 § 3 (Exh. 1).]

16.75.130 Redesignation initiated by motion.

A. A motion initiating a shoreline redesignation, as described in KMC [16.75.110\(B\)](#), must be accompanied by the following information:

1. A description of the shoreline and a property description, including parcel numbers, property

street addresses and nearest cross streets, for all properties that the shoreline runs through or is adjacent to;

2. A county assessor's map outlining the subject property or properties; and

3. A description of the proposed shorelines redesignation.

B. If the motion proposes site-specific redesignation, as "site" is defined in KMC Title 18, the redesignation shall be referred to the hearing examiner for consideration following the procedures of KMC [16.75.120](#) for consideration of redesignation applications. Any other redesignation proposal initiated by motion shall be referred to the city manager for consideration as part of the process for amendment of comprehensive plan or development regulations as outlined in Chapter 19.20 KMC.

C. A motion initiating a site-specific redesignation must identify the resources and the work program required to provide the same level of review accorded to an applicant-generated shoreline redesignation. Before adoption of the motion, the city manager shall have the opportunity to provide an analysis of the motion's fiscal impact. If the city manager determines that additional funds are necessary to complete the work program, the city manager may transmit an ordinance requesting the appropriation of supplemental funds. The council may consider the supplemental appropriation ordinance concurrently with the proposed motion referring the shorelines redesignation proposal to the examiner.

D. A site-specific redesignation initiated by motion shall follow the procedures in Chapters 19.25 and 19.30 KMC for shorelines redesignations with regard to the information to be provided and the notice and hearing processes, and shall meet the submittal requirements of KMC [16.75.120](#). The examiner shall make a recommendation to the council based on the criteria for review in KMC [16.75.160](#). [Ord. 12-0334 § 3 (Exh. 1).]

16.75.140 Frequency of consideration of shoreline redesignations.

A shorelines redesignation may not be initiated unless at least three years have elapsed since the council's prior consideration of the current designation for the property. The city manager or the council may waive this time limit if the proponent establishes that there exists either an obvious technical error or a change in circumstances justifying the need for earlier consideration of the shorelines redesignation. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.150 Shoreline redesignation and site-specific land use map amendment or zone reclassification.

A site-specific shorelines redesignation may be accompanied by a related proposal for a site-specific land use map amendment or zone reclassification, or both, in which case City review of the two applications must be consolidated to the extent practical, consistent with this division and Chapter 19.25 KMC. The council's consideration of a subarea or comprehensive shorelines redesignation is a legislative decision that must be determined before and separate from the

council's final consideration of a zone reclassification or site-specific shorelines redesignation, which is a quasi-judicial decision. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.160 Criteria for hearing examiner review.

A shorelines redesignation referred to the hearing examiner for a public hearing shall be reviewed based upon the requirements of comprehensive plan policies and City shorelines management goals and objectives and the following additional standards:

- A. The proposed change implements and supports the goals of the State Shorelines Management Act and City of Kenmore Shoreline Master Program requested;
- B. The impacts of development allowed by the proposed change will not permanently impair any habitat critical to endangered or threatened species; and
- C. The impacts of development allowed by the proposed change are adequately addressed in a mitigation plan providing significant enhancement of the first 100 feet adjacent to the stream and improved habitat for species declared as endangered or threatened under the Endangered Species Act, to the extent those impacts may be determinable at the time of the shorelines redesignation. A full mitigation plan shall accompany each application, as provided in KMC [16.75.120](#) and [16.75.130](#). [Ord. 12-0334 § 3 (Exh. 1).]

SHORELINE SUB-ELEMENT

SHORELINE PURPOSE, INTENT AND PRINCIPLES

INTRODUCTION

Washington's Shoreline Management Act (SMA) was passed by the State Legislature in 1971 and created in response to a growing concern among residents of the state that serious and permanent damage was being done to shorelines by unplanned and uncoordinated development. The goal of the SMA was "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." While protecting shoreline resources by regulating development, the SMA is also intended to provide for appropriate shoreline use by encouraging land uses that enhance and conserve shoreline functions and values.

The primary responsibility for administering the SMA is assigned to local governments through local shoreline master programs, adopted under guidelines established by Ecology. The guidelines (WAC 173-26) establish goals and policies that provide a framework for development standards and use regulations in the shoreline. The State legislature established new guidelines in 2003 requiring all cities and counties to update shoreline policies and regulations. The new shoreline guidelines set a higher level of environmental protection for shorelines in the state and a goal of "no net loss" of shoreline function. Local SMPs are to be based on these State guidelines and tailored to the specific conditions and needs of individual communities. The SMP is also meant to be a comprehensive vision of how the shoreline area will be managed over time.

Kenmore adopted King County's original 1978 SMP when the City incorporated in 1998. This Shoreline Master Program update was drafted to meet State guidelines and develop a program that is more tailored to the City's current shoreline conditions and land use plans.

EXISTING CONDITIONS

The existing conditions of Kenmore's shorelines were evaluated in the Shoreline Inventory and Analysis (2008). That evaluation included a description of ecosystem and watershed processes, the physical environment and water quality of each water body, biological resources, cultural resources, land use and public access.

SHORELINE MANAGEMENT PURPOSE AND INTENT

These policies briefly define the overall purpose and intent of Kenmore's Shoreline Master Program and reference the City's regulatory authority to manage shorelines of the state. The language in this new section is entirely based on WAC 173-26 and RCW 90.58.020.

Authority

Authority for enactment and administration of this Program is the Shoreline Management Act of 1971, Chapter 90.58, Revised Code of Washington (RCW), also referred to herein as "the Act."

Purpose and Intent

The purpose of this Program is: (A) to promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of City of Kenmore shorelines; (B) to manage shorelines in a positive, effective, and equitable manner; and (3) to further assume and carry out the responsibilities established by the Act for the City of Kenmore, and to adopt and foster the following policy contained in RCW 90.58.020 for shorelines of the State:

It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent upon use of the State's shoreline. Alterations of the natural condition of the shorelines of the State, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including, but not limited to, parks, marinas, piers, and other improvements facilitating public access to shorelines of the State, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the State and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the State.

Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.

Permitted uses in the shorelines of the State shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

Governing Principles

The following principles along with the policy statements of RCW 90.58.020 establish basic concepts that underpin the goals, policies and regulations of this Shoreline Master Program.

- A. Any inconsistencies between this Program and the Act must be resolved in accordance with the Act.
- B. The policies of this Program may be achieved by diverse means, one of which is regulation. Other means, authorized by the Act, include but are not limited to: acquisition of lands and/or easements by

purchase or gift, incentive programs, and implementation of capital facility and/or non-structural programs.

C. Protecting the shoreline environment is an essential statewide policy goal, consistent with other policy goals. Permitted and/or exempt development; actions taken prior to the Act's adoption; and/or unregulated activities can impair shoreline ecological processes and functions. This Program protects shoreline ecology from such impairments in the following ways:

1. By using a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by shorelines.
2. By including policies and regulations that require mitigation of adverse impacts in a manner that ensures no net loss of shoreline ecological functions. The required mitigation shall include avoidance, minimization, and compensation of impacts in accordance with the policies and regulations for mitigation sequencing in KMC 18.55.210. This Program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of the date of adoption of this Program.
3. By including policies and regulations to address cumulative impacts, including ensuring that the cumulative effect of exempt development will not cause a net loss of shoreline ecological functions, and by fairly allocating the burden of addressing such impacts among development opportunities.
4. By including regulations and regulatory incentives designed to protect shoreline ecological functions, and restore impaired ecological functions where such opportunities have been identified, consistent with the City of Kenmore Shoreline Restoration Plan.

D. Regulation of private property – to implement Program goals such as public access and protection of ecological functions and processes – must be consistent with all relevant constitutional and other legal limitations. These include, but are not limited to, civil rights guaranteed by the U.S. and State constitutions, recent federal and state case law, and state statutes.

E. Regulatory or administrative actions contained herein must be implemented consistent with the Public Trust Doctrine and other applicable legal principles as appropriate and must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.

F. The regulatory provisions of this Program are limited to shorelines of the state, whereas the Shoreline Restoration Plan may extend beyond the designated shoreline boundaries.

G. The policies and regulations established by the Program must be integrated and coordinated with those policies and rules of the City of Kenmore Comprehensive Plan and development regulations adopted under the Growth Management Act (GMA).

H. Consistent with the policy and use preferences of RCW 90.58.020, the City of Kenmore should balance the various policy goals of this Program giving consideration to other relevant local, state, and federal regulatory and non-regulatory programs.

SHORELINE JURISDICTION

This section provides an overview of Kenmore's shoreline jurisdiction, the area where the Shoreline Management Act applies. "Shorelines" means lakes greater than 20 acres and rivers and streams with a minimum of twenty cubic feet per second mean annual flow, including the entire water body waterward from the ordinary high water mark from its centerline or point, all water below the surface and associated shorelands (RCW 90.58.030(2)(d)). Under the SMA, the shoreline jurisdiction includes areas that are 200 feet landward of the ordinary high water mark (OHWM) of shorelines and their adjacent shorelands, defined in Kenmore as the upland area within 200 feet of the OHWM, as well as any associated wetlands and floodplains. Three waterbodies in Kenmore (Lake Washington, Sammamish River and Swamp Creek) are regulated under the SMA and the City's Shoreline Master Program (SMP). Lake Washington is the only shoreline designated as a "shoreline of statewide significance" under the SMA [RCW 90.58.030(2)e].

The Kenmore shoreline jurisdiction is shown on the Shoreline Environment Designations Map, **Figure LU-12**.

SHORELINES OF STATEWIDE SIGNIFICANCE

This section includes principles and policies for managing shorelines of statewide significance. In the City of Kenmore, shorelines of statewide significance include only the Lake Washington shoreline, as it is a lake with a surface acreage over 1,000 acres. The Shoreline Management Act sets specific use priorities for these shorelines and calls for a higher level of effort in implementing policy goals. The state legislature declared that the public interest shall be paramount in the management of shorelines of statewide significance.

- 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.

Management goals for shorelines of statewide significance were ranked in order of preference by the State (i.e., the first goal must be given priority over all subsequent goals), as listed in the following policy.

- Policy LU-16.1.2 In developing and implementing its Shoreline Master Program for Lake Washington the City of Kenmore shall give preference, in the following order, to uses that:
1. Recognize and protect the statewide interest over local interest;
 2. Preserve the natural character of the shoreline;
 3. Result in long-term over short-term benefit;
 4. Protect the resources and ecology of the shoreline;
 5. Increase public access to publicly owned areas of the shorelines;
 6. Increase recreational opportunities for the public in the shoreline; and
 7. Provide for any other element as defined in RCW 90.58.100.

SHORELINE ENVIRONMENT DESIGNATIONS

The Kenmore shoreline environment designations are shown on the Shoreline Environment Designations Map, **Figure LU-12**.

GOAL 17. IMPLEMENT THE OBJECTIVES, PURPOSE, DESIGNATION CRITERIA AND POLICIES FOR EACH SHORELINE ENVIRONMENT.

17.1 Downtown Waterfront Environment

Purpose: The purpose of the Downtown Waterfront Environment is to provide for mixed urban water-enjoyment uses, public access and recreation while protecting existing ecological functions.

Designation Criteria: The shoreline along the downtown waterfront is to be assigned the Downtown Waterfront Environment designation.

Management Policies

- | | |
|------------------|--|
| Policy LU-17.1.1 | Emphasis should be given to developing visual and physical public access to the shoreline in the Downtown Waterfront Environment. |
| Policy LU-17.1.2 | Multiple use of the shoreline should be encouraged. |
| Policy LU-17.1.3 | Redevelopment and renewal should be encouraged in order to accommodate future users and capitalize on the shoreline resource. |
| Policy LU-17.1.4 | Aesthetic improvement should be actively promoted by means of sign control regulations, architectural design standards, appropriate development siting, landscaping requirements (such as encouraging shoreline revegetation) and other development standards. |
| Policy LU-17.1.5 | Development should not cause adverse impacts to ecological functions. Any adverse impacts shall be mitigated. Where applicable, new development shall include environmental cleanup of the shoreline in accordance with relevant state and federal laws. |
| Policy LU-17.1.6 | Water dependent, water-related and water-enjoyment uses should be a priority over other uses in this environment. Nonwater-oriented uses should not be allowed except as part of mixed use developments that include water-dependent and water-related uses. |
| Policy LU-17.1.7 | Encourage redevelopment of industrial sites into mixed urban uses, including public access, recreation, residential uses, and commercial uses. |
| Policy LU-17.1.8 | Identify strategic shoreline public access points and pursue linkages between public spaces along the waterfront, including trails, boardwalks, and waterfront transportation. The Downtown Circulation Map and the Kenmore Trails Map shall provide guidance for strategic shoreline public access points and linkages and should be used in regulating the location of public access improvements. |

17.2 Shoreline Residential Environment

Purpose: The purpose of the Shoreline Residential Environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses within new multifamily developments or on public property.

Designation Criteria: The Shoreline Residential Environment designation should be assigned to shoreline areas if they are predominantly single-family or multifamily residential development or are planned and platted for residential development, and the shoreline areas do not meet the criteria for other designations.

Management Policies

- | | |
|------------------|--|
| Policy LU-17.2.1 | Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set considering the environmental limitations and sensitivity of the shoreline area and the level of infrastructure and services available. |
| Policy LU-17.2.2 | Multifamily and multi-lot residential and recreational developments should provide public access and community recreational facilities. |
| Policy LU-17.2.3 | Access, utilities, and public services should be available and adequate to serve existing needs and planned future development. |

17.3 Urban Conservancy Environment

Purpose: The purpose of the Urban Conservancy Environment is to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

Designation Criteria: An Urban Conservancy Environment designation is assigned to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring ecological functions of the area and that are not generally suitable for water-dependent uses if any of the following characteristics apply:

- (A) The shoreline includes wetlands or exceptional riparian corridor that should not be more intensively developed;
- (B) The shoreline is in public ownership and has been altered or in public ownership that is small in size and not adjacent to other publicly owned properties;
- (C) The shoreline has been altered but retains important ecological functions;
- (D) The shoreline has potential for ecological restoration or is a restoration priority; or
- (E) The shoreline has potential for development that is compatible with ecological restoration.

Management Policies

- | | |
|-------------------|---|
| Policy LU-17.3.1 | Uses that preserve the natural character of the area or promote preservation of open space, floodplain or critical areas either directly or over the long term should be the primary allowed uses in the Urban Conservancy Environment. Uses that result in the restoration of ecological functions are allowed if the use is otherwise compatible with the purpose of the environment. |
| Policy LU-17.3.2 | New development should be restricted to those which are compatible with the natural and biophysical limitations of the land and water. |
| Policy LU-17.3.3 | Commercial and industrial uses are generally discouraged, but commercial uses consistent with underlying zoning may be allowed if accompanied by ecological restoration and public access enhancement. |
| Policy LU-17.3.4 | Diverse public access and recreational activities which are compatible with the Urban Conservancy Environment should be encouraged when adverse ecological impacts can be mitigated. |
| Policy LU-17.3.5 | Development which would be a hazard to public health and safety or would materially interfere with existing ecological processes and functions should not be allowed. |
| Policy LU-17.3.6 | Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas in the Urban Conservancy Environment adjacent to Lake Washington and the Sammamish River, water-dependent uses should be given highest priority. |
| Policy LU-17.3.7 | Standards for residential density and development shall be set considering the environmental limitations and sensitivity of the shoreline area and the level of infrastructure and services available |
| Policy LU-17.3.8 | New structural flood control devices should be strongly discouraged in the Urban Conservancy Environment. |
| Policy LU-17.3.9 | Developments should not be allowed unless connected to a sewer line. |
| Policy LU-17.3.10 | Developments should be regulated so as to minimize the following: erosion or sedimentation, the adverse impact on aquatic habitats and substantial degradation of the existing character of the Urban Conservancy Environment. |
| Policy LU-17.3.11 | Standards should be established for shoreline stabilization measures, vegetation conservation, water quality and shoreline modifications within the Urban Conservancy Environment. |
| Policy LU-17.3.12 | The protection and restoration of stream 0056 where it flows into Lake Washington should be prioritized. |
| Policy LU-17.3.13 | Because the parcels located to the north of Saint Edward State Park and designated Urban Conservancy are largely ecologically intact, if one or more of those parcels are acquired by a public agency for open space purposes, the City |

should consider redesignating those parcels as Natural if they meet applicable criteria.

17.4 Natural Environment

Purpose: The purpose of the Natural Environment is to protect public shoreline areas that include ecologically intact or minimally altered shorelines. Only low intensity uses are to be allowed in this environment to maintain existing ecological processes and functions.

Designation Criteria: A Natural Environment designation is assigned to shoreline areas if any of the following characteristics apply:

- (A) A relatively large, contiguous area of the shoreline is in public ownership and ecologically intact or minimally altered;
- (B) The shoreline represents ecological processes or functions that provide educational or scientific opportunities; or
- (C) The shoreline is unable to support active uses or development without adverse impacts to ecological functions.

Management Policies

- | | |
|------------------|---|
| Policy LU-17.4.1 | The Natural Environment should remain free from development or uses that would degrade the ecological functions or adversely affect their natural character. |
| Policy LU-17.4.2 | The intensity and type of uses permitted should be restricted in the Natural Environment to maintain the natural systems and resources in their natural condition. The following new uses should not be allowed in the Natural Environment: commercial uses, industrial uses, nonwater oriented recreation, and roads, utility corridors, and parking areas that can be located outside of the Natural Environment. |
| Policy LU-17.4.3 | Limited access should be allowed to areas in the Natural Environment. |
| Policy LU-17.4.4 | Uses that are consumptive of the physical and biological resources or that may degrade the actual or potential value of the Natural Environment should be prohibited. |
| Policy LU-17.4.5 | Uses and activities in locations adjacent to the Natural Environment should be strictly regulated to ensure that the integrity of the shoreline ecology is not compromised. |
| Policy LU-17.4.6 | Scientific, historical, cultural and educational research uses and low-intensity water-oriented recreational access uses may be allowed provided that no adverse impact on the area will result. |
| Policy LU-17.4.7 | New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be |

allowed. The subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely affects ecological functions should not be allowed.

17.5 Aquatic Environment

Purpose: The purpose of the Aquatic Environment is to protect, restore, and manage the unique characteristics and resources of navigable areas waterward of the ordinary high-water mark on the Sammamish River and Lake Washington.

Designation Criteria: Lake Washington and the Sammamish River below (waterward of) the ordinary high water mark.

Management Policies

- | | |
|------------------|---|
| Policy LU-17.5.1 | New over-water structures should be limited, with priority given to water-dependent uses, public access and ecological restoration. |
| Policy LU-17.5.2 | The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use. |
| Policy LU-17.5.3 | To reduce the adverse impacts of shoreline development and increase effective use of water resources, multi-purpose use of over-water facilities should be encouraged. |
| Policy LU-17.5.4 | All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider any adverse impacts to public views, and to allow for the safe unobstructed passage of fish and wildlife, particularly those species dependent on migration. |
| Policy LU-17.5.5 | Uses that adversely affect the ecological functions of critical freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020 and impacts shall be mitigated. |
| Policy LU-17.5.6 | Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrologic conditions. |

GENERAL SHORELINE MANAGEMENT POLICIES

General shoreline management policies apply regardless of environment designation unless specifically stated within the policy, and are intended to provide general guidance in the management of shorelines. These general policies are organized by shoreline element.

18. Economic Development

GOAL 18.1. *SHORELINE DEPENDENT DEVELOPMENT SHOULD PROVIDE LONG RANGE ECONOMIC BENEFITS WHILE ENSURING COMPATIBILITY WITH ENVIRONMENTAL AND LAND USE GOALS.*

- Policy LU-18.1.1 Kenmore should plan for the location and design of industries, industrial projects of statewide significance, transportation facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state.
- Policy LU-18.1.2 New economic development in the shoreline should be encouraged to cluster in areas of the Downtown Waterfront environment that can be upgraded and redeveloped.
- Policy LU-18.1.3 Economic development should be designed to minimize actual shoreline space occupied.
- Policy LU-18.1.4 Economic development in the shoreline involving high intensity commercial land use should be confined to the Downtown Waterfront.
- Policy LU-18.1.5 Cooperative use of docks, parking and storage facilities should be encouraged among commercial uses along the shoreline.

GOAL 18.2. *SHORELINE ECONOMIC DEVELOPMENT SHOULD PROVIDE PUBLIC PHYSICAL AND VISUAL AVAILABILITY TO THE WATER, CONSISTENT WITH PUBLIC HEALTH AND SAFETY.*

- Policy LU-18.2.1 Overlook points, historic areas and points of public access to the shoreline should be considered in commercial site planning.
- Policy LU-18.2.2 Economic development in the shoreline that utilizes public land should be designed to include public viewpoints, waterfront restaurants, and similar public facilities.
- Policy LU-18.2.3 Structures placed in the water for economic purposes should be designed to prevent adverse impacts to shoreline ecological processes and functions.
- Policy LU-18.2.4 Economic development in the shoreline should be prohibited in identified environmentally critical areas.

GOAL 18.3. *WHENEVER FEASIBLE, WATERFRONT ECONOMIC DEVELOPMENT SITES SHOULD BE LOCATED IN AREAS THAT ARE ALREADY DEVELOPED WITH SIMILAR USES AND PLANNED SO AS TO PROVIDE MULTIPLE USES OF THE SHORELINES OF THE STATE.*

- Policy LU-18.3.1 Consistent with public safety, waterfront industrial developments should be encouraged to provide fishing piers, boat ramps and other facilities.
- Policy LU-18.3.2 In siting economic development in the shoreline, water-dependent uses should be given priority over water-oriented uses.
- Policy LU-18.3.4 To support the long-range economic base in Kenmore, shoreline economic development should include mixed urban uses, and shoreline public access and recreation should be encouraged.

GOAL 18.4. PRIORITY SHOULD BE GIVEN TO THOSE SHORELINE ECONOMIC DEVELOPMENTS WHICH MAINTAIN OPTIONS FOR FUTURE USERS OF THE WATER.

- Policy LU-18.4.1 Development of commercial and recreational fisheries should be encouraged through measures to protect and restore fish habitat and provision for boating facilities.
- Policy LU-18.4.2 Mining, dredging, channelizing or filling of shoreline should be discouraged.
- Policy LU-18.4.3 Priority should be given shoreline economic development of renewable over non-renewable resources.
- Policy LU-18.4.4 In order to ensure that treaty rights are respected, public notice of application should be provided to affected tribes on all projects requiring general public notice.

19. Public Access, Recreation and Views and Aesthetics

Public Access

GOAL 19.1. INCREASE THE ABILITY OF THE GENERAL PUBLIC TO REACH, TOUCH AND ENJOY THE WATER'S EDGE, TO TRAVEL ON THE WATERS OF THE STATE AND TO VIEW THE WATER AND THE SHORELINE FROM ADJACENT LOCATIONS, PROVIDED THAT PRIVATE PROPERTY RIGHTS, PUBLIC SAFETY AND SHORELINE ECOLOGICAL PROCESSES AND FUNCTIONS ARE PROTECTED CONSISTENT WITH THE U.S. AND STATE CONSTITUTIONS, STATE CASE LAW, AND STATE STATUTES.

- Policy LU-19.1.1 Development for the purpose of public access should respect and protect the enjoyment of private property rights along shorelines.
- Policy LU-19.1.2 Shoreline public access areas should be planned to provide for ancillary facilities such as parking and sanitation when appropriate.
- Policy LU-19.1.3 Shoreline public access and ancillary facilities should be designed and developed to provide adequate protection for adjacent private properties.
- Policy LU-19.1.4 Appropriate signs should be used to designate publicly-owned shorelines and designated public access on public shorelines.
- Policy LU-19.1.5 Public access to and along the water's edge should be available in publicly owned shorelines that are tolerant of human activity.

GOAL 19.2. PUBLIC ACCESS AND RECREATION SITES AND FACILITIES SHOULD BE WELL-MAINTAINED AND OPERATED.

Policy LU-19.2.1 Public access should be policed and improved consistent with the planned intensity of recreational use.

Policy LU-19.2.2 Shoreline public access should be limited to low-intensity, passive recreation in the Natural and Urban Conservancy environments.

GOAL 19.3. PRIORITY FOR ACCESS ACQUISITION SHOULD CONSIDER RESOURCE DESIRABILITY, AVAILABILITY AND PROXIMITY OF POPULATION.

Policy LU-19.3.1 Where appropriate, improve, pursue or develop shoreline access, including, but not limited to, open space, boat launches, fishing facilities, trails, and streetscaping on publicly owned shorelands consistent with the Parks and Recreation Master Plan.

GOAL 19.4. PHYSICAL OR VISUAL ACCESS TO SHORELINES SHOULD BE REQUIRED AS A CONDITION OF APPROVAL FOR SHORELINE DEVELOPMENT ACTIVITIES COMMENSURATE WITH THE ADVERSE IMPACTS OF NEW MULTI-FAMILY AND COMMERCIAL SHORELINE DEVELOPMENT AND THE CORRESPONDING BENEFIT TO THE PUBLIC OF SUCH DEVELOPMENT, CONSISTENT WITH CONSTITUTIONAL LIMITATIONS.

Policy LU-19.4.1 The City should provide incentives to encourage multi-family and commercial private property owners to provide public shoreline access.

Policy LU-19.4.2 Public pedestrian easements should be required in future shoreline land use actions whenever shoreline features are appropriate for public use.

Policy LU-19.4.3 Shorelines of the state that include but are not limited to any of the following conditions should be considered for pedestrian easements:

- a. Where a proposed trail in the Kenmore Trail System or Downtown Plan Circulation improvement is planned along the shoreline.
- b. Areas presently being legally used or historically having been legally used by the public along the shoreline for access.

Policy LU-19.4.4 Public access opportunities identified in the Shoreline Inventory and Characterization should be pursued as feasible over time to increase and improve public access to the shoreline.

GOAL 19.5. PUBLIC ACCESS TO SHORELINES OF THE STATE SHOULD BE DEVELOPED IN A WIDE RANGE OF LOCATIONS AND SHOULD BE OPEN TO ALL PEOPLE.

Policy LU-19.5.1 Viewpoints, lookouts, and vistas of shorelines of the state and wetlands should be publicly accessible.

- Policy LU-19.5.2 Where appropriate, utility and transportation rights-of-way on the shoreline should be made available for public access and use.
- Policy LU-19.5.3 Publicly-owned street ends that abut the shoreline should be retained or reclaimed for public access.
- Policy LU-19.5.4 Shoreline recreational facilities and other public access points should be connected by trails, bicycle pathways and other access links where appropriate, as consistent with the Parks and Recreation Master Plan (2003) and Downtown Plan.
- Policy LU-19.5.5 Public access points should be of a nature and scale that would be compatible with adjacent land uses, water-dependent uses, navigation and protection of natural features, including aquatic habitat.
- Policy LU-19.5.6 Public access should respect and protect ecological processes and functions and aesthetic values in the shorelines of the state.
- Policy LU-19.5.7 Environmentally critical areas in shoreline areas should be retained as open space. Access and use should be restricted or prohibited such that there is no net loss of shoreline ecological processes and functions.

GOAL 19.6. *PROVIDE FOR THE PRESERVATION AND EXPANSION OF SHORELINE DEPENDENT AND WATER ORIENTED RECREATION OPPORTUNITIES THAT FACILITATE THE PUBLIC'S ABILITY TO ENJOY THE PHYSICAL AND AESTHETIC QUALITIES OF THE SHORELINE THROUGH PARKS, PUBLIC ACCESS TO BEACHES, BICYCLE AND PEDESTRIAN TRAILS, VIEWPOINTS AND OTHER RECREATIONAL AMENITIES.*

GOAL 19.7. *AREAS CONTAINING SPECIAL SHORELINE RECREATION QUALITIES NOT EASILY DUPLICATED SHOULD BE AVAILABLE FOR PUBLIC USE AND ENJOYMENT.*

- Policy LU-19.7.1 Opportunities should be provided for the public to understand natural shoreline processes and experience natural resource features in diverse forms of water-oriented recreation.

Recreation

GOAL 19.8. *SHORELINE RECREATIONAL MANAGEMENT AND DEVELOPMENT SHOULD PROTECT SHORELINE ECOLOGICAL PROCESSES AND FUNCTIONS.*

- Policy LU-19.8.1 Low intensity recreational uses should be allowed along intact shorelines; service facilities such as footpaths, periphery car parks and adequate sanitary facilities should only be allowed where appropriate.
- Policy LU-19.8.2 Already popular beaches and other predominantly undeveloped shorelines should be available and designated as medium intensity recreational use areas

to be free from expansive development; intensity of use should be consistent with the protection of shoreline ecological processes and functions.

- Policy LU-19.8.3 Small or linear portions of the shoreline in public ownership that are suitable for recreational purposes should be made available for variable intensities of use, which may include vista points, pedestrian walkways, water entry points, street-ends, and shoreline areas adjacent to waterfront roads.
- Policy LU-19.8.4 Overall design and development in shoreline recreational areas should be responsive to the site characteristics of those areas and be consistent with the level of use in the area concerned.
- Policy LU-19.8.5 Nonwater-oriented recreational facility development should be located inland away from the water's edge except where appropriate in the Downtown Waterfront environment. In the Downtown Waterfront environment, non-water-dependent recreation facilities such as a children's play area or picnic tables may be appropriate near the water on the inner harbor area and may be allowed as part of an overall development providing substantial public access and other shoreline improvements.

GOAL 19.9. THE PROVISION OF ADEQUATE PUBLIC SHORELINE RECREATION LANDS SHOULD BE BASED ON AN ACQUISITION PLAN WITH CLEAR PUBLIC INTENT.

GOAL 19.10. A BALANCED VARIETY OF RECREATIONAL OPPORTUNITIES SHOULD BE PROVIDED REGIONALLY FOR PEOPLE OF DIFFERENT AGES, HEALTH, FAMILY STATUS AND FINANCIAL ABILITY.

- Policy LU-19.10.1 Appropriate specialized recreation facilities should be provided for the handicapped or others who might need them.
- Policy LU-19.10.2 Shoreline recreation areas should provide opportunities for different use intensities ranging from low (solitude) to high (many people).
- Policy LU-19.10.3 Opportunities for shoreline recreational experiences should include a wide range of accessibility and duration of use.
- Policy LU-19.10.3.5 Shoreline recreational experiences should include a wide range of different areas from remote-outdoor undeveloped areas to highly developed indoor-outdoor areas.
- Policy LU-19.10.4 Recreational development should meet the demands of population growth consistent with the protection of shoreline ecological processes and functions.
- Policy LU-19.10.5 Encourage private and public investment in recreation facilities.
- Policy LU-19.10.6 Locate, design, and operate recreational development in a manner that minimizes adverse effects on adjacent properties as well as other social, recreational, or economic activities.

Views and Aesthetics

GOAL 19.11. SCENIC, AESTHETIC AND ECOLOGICAL QUALITIES OF NATURAL AND DEVELOPED SHORELINES SHOULD BE PRESERVED AS VALUABLE RESOURCES.

- Policy LU-19.11.1 In shoreline areas, the natural topography should not be substantially altered.
- Policy LU-19.11.2 Setbacks should be established for new development and redevelopment in the shoreline jurisdiction to minimize adverse impacts to views of the water by the public and adjacent uses and to protect the visual quality of views of the shoreline.
- Policy LU-19.11.3 Shoreline structures should be sited and designed to minimize view obstruction and should be visually compatible with the shoreline character.
- Policy LU-19.11.4 Public viewing and interpretation should be encouraged at or near industrial, commercial, and governmental shoreline development when consistent with security and public safety.

20. Circulation

GOAL 20.1. CIRCULATION SYSTEMS IN SHORELINE AREAS SHOULD BE LIMITED TO THOSE THAT ARE SHORELINE DEPENDENT, THOSE THAT WOULD SERVE SHORELINE DEPENDENT USES AND THOSE THAT WOULD PROTECT SHORELINE ECOLOGICAL PROCESSES AND FUNCTIONS.

GOAL 20.2 NEW SURFACE TRANSPORTATION DEVELOPMENT SHOULD BE DESIGNED TO PROVIDE THE BEST POSSIBLE SERVICE WITH THE LEAST POSSIBLE INFRINGEMENT UPON THE SHORELINE ENVIRONMENT. ANY ADVERSE IMPACTS TO SHORELINE ECOLOGICAL PROCESSES AND FUNCTIONS SHOULD BE MINIMIZED AND MITIGATED.

- Policy LU- 20.2.1 New transportation facilities and improvements to existing facilities that substantially increase levels of air, noise, odor, visual or water pollution should be discouraged.
- Policy LU- 20.2.2 Transportation corridors should be designed to harmonize with the topography and other natural characteristics of the shoreline through which they traverse.
- Policy LU- 20.2.3 Surface transportation facilities in shoreline areas should be set back from the ordinary high water mark far enough to make unnecessary such protective measures as bank stabilization, landfill, bulkheads, groins, jetties or substantial site regrade.

- Policy LU- 20.2.4 New transportation developments in shoreline areas should provide turnout areas for scenic stops and off-road rest areas where the topography, view and natural features warrant.
- Policy LU- 20.2.5 Shoreline roadway corridors with historic significance or great aesthetic quality should be retained and maintained for those characteristics.
- Policy LU- 20.2.6 The City should encourage new transportation facilities crossing lakes, streams, rivers or wetlands to locate in existing corridors except where any adverse impact can be minimized by selecting an alternate corridor.

GOAL 20.3. SHORELINE CIRCULATION SYSTEMS SHOULD ENCOURAGE ALTERNATIVE ROUTES AND MODES OF TRAVEL.

- Policy LU- 20.3.1 Future development and maintenance of ferry services on Lake Washington should be encouraged in the Downtown Waterfront environment, and integrated with the overall transportation system.
- Policy LU- 20.3.2 Circulation routes should provide for non-motorized means of travel.
- Policy LU- 20.3.3 The City should develop a public trail system along the north shore of the Sammamish River and through the Downtown Waterfront shoreline environment on Lake Washington, as consistent with the Downtown Plan (2003).

GOAL 20.4. CIRCULATION SYSTEMS SHOULD BE LOCATED AND ATTRACTIVELY DESIGNED SO AS NOT TO UNNECESSARILY OR UNREASONABLY REDUCE THE BENEFITS DERIVED FROM PRIVATE PROPERTY.

- Policy LU- 20.4.1 Motorized vehicular traffic on beaches and other natural shoreline areas should be prohibited.
- Policy LU- 20.4.2 Transportation facilities providing access to shoreline development should be planned and designated in scale and character with the use proposed and should consider the future economic and social needs of the community consistent with the policies of the Kenmore SMP.

GOAL 20.5. CIRCULATION SYSTEMS DISRUPTIVE TO PUBLIC SHORELINE ACCESS AND OTHER SHORELINE USES SHOULD BE RELOCATED WHERE FEASIBLE.

- Policy LU- 20.5.1 Transportation elements disruptive to the shoreline character that cannot feasibly be relocated should be conditioned or landscaped to minimize visual and noise pollution.
- Policy LU- 20.5.2 Kenmore should promote and encourage modes of transportation that consume the least amount of energy and produce the least pollution while providing the best efficiency.

21. Conservation and Protection

GOAL 21.1. PRESERVE OR DEVELOP SHORELINES, ADJACENT UPLANDS, AND ADJACENT WATER AREAS IN A MANNER THAT ENSURES NO NET LOSS OF SHORELINE ECOLOGICAL PROCESSES AND FUNCTIONS.

- Policy LU-21.1.1 Kenmore should support efforts to improve stream conditions and fish habitat, including re-establishing access to spawning and rearing areas.
- Policy LU-21.1.2 Buffers or setbacks should be established for new development and redevelopment in the shoreline jurisdiction to protect shoreline ecological processes and functions and to provide space for shoreline vegetation preservation and enhancement.
- Policy LU-21.1.3 Where appropriate, land and water uses should be located so that they do not interfere with the restoration or enhancement of shoreline ecological processes and functions.
- Policy LU-21.1.4 Environmentally critical areas in the shoreline, including critical freshwater habitats, should be protected from uses or activities that will have adverse effects.
- Policy LU-21.1.5 Kenmore should seek and use any available monitoring data on shoreline conditions in regulating development and making decisions that affect shoreline use, including, but not limited to, water quality monitoring by King County and the Department of Ecology, and monitoring data from hazardous material cleanup sites. The most recent data regarding a cleanup site should be obtained prior to issuing any permits for development on such sites.

GOAL 21.2. ENSURE PRESERVATION OF UNIQUE AND NON-RENEWABLE NATURAL RESOURCES AND ENSURE CONSERVATION OF RENEWABLE NATURAL RESOURCES FOR THE BENEFIT OF EXISTING AND FUTURE GENERATIONS AND THE PUBLIC INTEREST.

- Policy LU-21.2.1 Shorelines and shorelands that are of unique or valuable natural character should be acquired and preserved wherever feasible.
- Policy LU-21.2.2 Kenmore should encourage the conservation of fish, wildlife, and other renewable resources.
- Policy LU-21.2.3 All future shoreline development should be designed and sited to prevent adverse impacts on the natural shoreline environment. Adverse impacts shall be mitigated to ensure no net loss of shoreline ecological functions.
- Policy LU-21.2.4 Shoreline activities, and developments should be planned, constructed and operated to maintain or enhance the quality of air, soil, and water on the shorelines.
- Policy LU-21.2.5 Consumptive and extractive industries should allow the natural shoreline systems to function with a minimum of disruption during their operations and

should return the shoreline to as near natural a state as possible upon their completion.

- Policy LU-21.2.6 Any structure or activity in or near the water should be constructed in such a way that it will prevent adverse physical or chemical effects on water quality, vegetation, fish, or wildlife.
- Policy LU-21.2.7 Uses or activities that degrade the natural resources of the shoreline should not be allowed.
- Policy LU-21.2.8 Some uses or activities may be allowed only when compensatory habitat enhancement is provided as mitigation. When considering compensatory habitat enhancement as mitigation for impacts from new structures, such as when a reduced buffer or a non-water dependent use is requested, the enhancement should be proportional to the degree of impact of the new structure, and take into account the degree to which the existing buffer has already been compromised. Enhancement should focus on restoring shoreline ecological functions that are most critical and that have been most diminished in the Kenmore shoreline. In approving any compensatory habitat enhancement plan, the Director shall consider the changes in surface water runoff rates and water quality (such as through increased impervious area), habitat structure (such as loss or alteration of vegetation), and habitat quality (such as from lighting, noise, or activities) that the project would cause. Enhancements should generally focus on reducing or offsetting project impacts but may focus on restoring other critical ecological functions in the shoreline that have been lost or diminished (such as placement of large woody debris in water or restoring shallow water habitat). The Director may determine whether an enhancement that provides a broader benefit may be substituted for one that would offset the impacts of an individual project. The Director may deny a request to allow intrusion into a buffer or for development of a non-water dependent use if the enhancement proposed does not fully mitigate the impacts of the project and provide a sufficient broader benefit.

Critical Areas

GOAL 21.3. THE KENMORE SHORELINE MASTER PROGRAM AND IMPLEMENTING REGULATIONS SHALL PROVIDE A LEVEL OF PROTECTION FOR CRITICAL AREAS AT LEAST EQUAL TO THAT PROVIDED BY KENMORE'S CRITICAL AREA POLICIES AND IMPLEMENTING REGULATIONS.

- Policy LU-21.3.1 Kenmore shall protect shorelines and, where possible, should restore degraded habitat and critical area functions and values as consistent with the Comprehensive Plan Natural Environment Sub-Element.
- Policy LU-21.3.2 Kenmore shall apply the following sequence of steps listed in order of priority in evaluating and mitigating the adverse impacts of development and redevelopment on critical areas within the shoreline jurisdiction, as consistent with WAC 173-26-201(2)(e):

1. Avoid the impacts altogether;
2. Minimize impacts;
3. Rectify impacts by repairing, rehabilitating or restoring the affected environment;
4. Reduce or eliminate the impacts over time;
5. Compensate for impacts by replacing, enhancing or providing substitute resources; and
6. Monitor the impact and take appropriate corrective measures.

Wetlands

GOAL 21.4. KENMORE SHOULD ALLOW ALTERATIONS TO WETLANDS ONLY IF THERE IS NO NET LOSS OF WETLAND FUNCTIONS AND VALUES.

Policy LU-21.4.1 Kenmore regulations for wetlands in shorelines shall address the following uses to achieve, at a minimum, no net loss of wetland area and functions:

1. Removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;
2. Dumping, discharging, or filling with any material, including discharges of stormwater and domestic, commercial, or industrial wastewater;
3. Draining, flooding, or disturbing of the open water level, duration of inundation, or groundwater table;
4. Driving of pilings;
5. Placing of obstructions;
6. Construction, reconstruction, demolition, or expansion of any structure;
7. Significant vegetation removal;
8. Other uses or development that results in an adverse ecological impact to the physical, chemical or biological characteristics of wetlands; and
9. Activities reducing the functions of buffers.

Policy LU-21.4.2 Kenmore shall delineate buffers around wetlands to protect and maintain wetland functions. Buffer widths shall be based on ecological function, characteristics and setting, any potential conflicts with adjacent land use, and other relevant factors.

Policy LU-21.4.3 Kenmore may allow compensatory mitigation only after a mitigation sequence is applied consistent with Policy LU-21.3.2. Lower priority mitigation

measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

Critical Freshwater Habitat

GOAL 21.5 KENMORE SHALL ENSURE PROTECTION OF CRITICAL FRESHWATER HABITAT CONSISTENT WITH KENMORE CRITICAL AREA REGULATIONS FOR FISH AND WILDLIFE HABITAT OF IMPORTANCE (KMC 18.55.520 AND 18.55.530).

- Policy LU-21.5.1 Kenmore should establish priorities for protection and restoration, where appropriate, along river corridors and lake shorelines.
- Policy LU-21.5.2 Uses and development within and along stream channels, associated channel migration zones, wetlands, lake shorelines, and floodplains within the shoreline jurisdiction should be regulated to ensure that no net loss of ecological processes and functions results from new development near freshwaters of the state, including associated hyporheic zones.
- Policy LU-21.5.3 Kenmore shall protect ecological functions associated with critical freshwater habitat as necessary to ensure no net loss from shoreline activities and associated changes.
- Policy LU-21.5.4 Kenmore should facilitate appropriate restoration projects.

Flood Hazard Areas

GOAL 21.6. THE KENMORE SHORELINE MASTER PROGRAM SHALL UTILIZE THE POLICIES AND PROGRAMS ESTABLISHED IN THE KENMORE FLOOD HAZARD MANAGEMENT PLAN AND FLOOD HAZARD REGULATIONS TO MEET THE REQUIREMENTS OF THE SHORELINE MANAGEMENT ACT AND THE DEPARTMENT OF ECOLOGY'S GUIDELINES FOR FLOOD HAZARD REDUCTION.

Water Quality, Stormwater and Nonpoint Pollution

GOAL 21.7. PREVENT ADVERSE IMPACTS TO WATER QUALITY AND STORM WATER QUANTITY THAT WOULD RESULT IN A NET LOSS OF SHORELINE ECOLOGICAL FUNCTIONS OR ADVERSE IMPACTS TO AESTHETIC QUALITIES OR RECREATIONAL OPPORTUNITIES.

- Policy LU- 21.7.1 Ensure consistency between shoreline management provisions and other regulations that address water quality and stormwater quantity. The regulations that are most protective of ecological functions and public safety shall apply.

Geologically Hazardous Areas

GOAL 21.8. PREVENT ADVERSE IMPACTS TO THE SHORELINE AND PUBLIC SAFETY AS A RESULT OF INAPPROPRIATE DEVELOPMENT IN

**GEOLOGICALLY HAZARDOUS AREAS, INCLUDING AREAS
SUSCEPTIBLE TO EROSION, SLIDING, EARTHQUAKE, OR OTHER
GEOLOGICAL EVENTS.**

- Policy LU- 21.8.1 Ensure consistency between shoreline management provisions and other regulations that address geologically hazardous areas by incorporating Kenmore critical areas regulations into the SMP.
- Policy LU- 21.8.2 Prohibit development or the creation of new lots that would cause foreseeable risk from geological conditions to people or improvements, or would require structural stabilization of the shoreline to protect the development, over the life of the development.
- Policy LU- 21.8.3 If shoreline stabilization is required to protect existing development from geologic hazards, it shall be developed consistent with Section 24.2 of these policies.

22. Archaeological, Historic and Cultural Resources

GOAL 22.1. HISTORIC PROPERTIES IN THE SHORELINE JURISDICTION SHOULD BE PROTECTED TO PREVENT THE DESTRUCTION OF, OR DAMAGE TO, ANY SITE HAVING ARCHAEOLOGICAL, HISTORIC, CULTURAL, OR SCIENTIFIC VALUE THROUGH COORDINATION AND CONSULTATION WITH THE APPROPRIATE LOCAL, STATE AND FEDERAL AUTHORITIES, INCLUDING AFFECTED TRIBES.

1. Sites should be protected in collaboration with appropriate tribal, state, federal, and other local governments. Cooperation among public and private parties is to be encouraged in the identification, protection, and management of cultural resources.
2. Where appropriate, access to such sites should be made available to parties of interest. Access to such sites must be designed and managed in a manner that gives maximum protection to the resource.
3. Opportunities for education related to archaeological, historical and cultural features should be provided where appropriate and incorporated into public and private programs and development.

- Policy LU-22.1.1 Kenmore should work with tribal, state, federal and local governments as appropriate to maintain an inventory of all known historic properties within the City in observance of applicable state and federal laws protecting such information from public disclosure. As appropriate, such sites should be preserved and/or restored for study, education and/or public enjoyment.
- Policy LU-22.1.2 Provisions for historic property preservation, restoration and education should be incorporated with open space or recreation areas in site development plans whenever compatible and feasible.
- Policy LU-22.1.3 Cooperation among involved private and public parties should be encouraged to achieve these historic, cultural, scientific and educational objectives.

- Policy LU-22.1.4 Private and public owners of historic properties should be encouraged to provide public access and educational opportunities at levels consistent with long-term protection of both historic values and shoreline ecological processes and functions. Site-specific conditions may require public site access to be restricted at times, but educational means should be provided whenever possible.
- Policy LU- 22.1.5 Historic property development should be planned and carried out so as to prevent adverse impacts to the resource. Adverse impacts to neighboring properties and other shoreline uses should be limited to temporary or reasonable levels.
- Policy LU- 22.1.6 Owners of historic properties are encouraged to make substantial development plans known well in advance of application so that appropriate agencies, such as the Washington State Department of Archaeology and Historic Preservation, Tribes and others may have ample time to assess the site and make arrangements to preserve historic, cultural, scientific and educational values as applicable.
- Policy LU- 22.1.7 If development is proposed adjacent to an historic property, then the proposed development should be designed and operated so as to be compatible with continued protection of the historic, cultural or archaeological site.

SHORELINE USE AND MODIFICATION POLICIES

23. Shoreline Use

General Use Policies

GOAL 23.1. DEVELOPMENT WITHIN THE SHORELINE JURISDICTION SHALL PROTECT THE PUBLIC'S HEALTH AND SAFETY, AND PRIVATE PROPERTY RIGHTS WHILE IMPLEMENTING THE POLICIES OF THE SHORELINE MANAGEMENT ACT.

GOAL 23.2 PRESERVE OR DEVELOP SHORELINES, ADJACENT UPLANDS AND ADJACENT WATER AREAS IN A MANNER THAT ENSURES AN ORDERLY BALANCE OF SHORELINE USES.

- Policy LU-23.2.1 Where there is a conflict between the uses permitted by zoning and the Shoreline Master Program, preference shall be given first to water-dependent uses, then to water-related uses, and finally to water-enjoyment uses.
- Policy LU-23.2.2 Kenmore shall adopt use policies and development regulations to achieve consistency between shorelands and adjacent lands as directed in RCW 90.58.340.
- Policy LU-23.2.3 Shoreline land and water areas particularly suited for specific and appropriate uses should be designated and reserved for such uses.

- Policy LU-23.2.4 Like or compatible shoreline uses should be clustered or distributed in a rational manner rather than be allowed to develop haphazardly.
- Policy LU-23.2.5 Multiple uses of the shoreline should be encouraged where location and integration of compatible uses are feasible.
- Policy LU-23.2.6 The City shall consider the goals and policies within the Shoreline Master Program in all land use management actions regarding the use or development of adjacent uplands or the water areas, adjacent uplands and associated wetlands or streams with less than 20 cubic feet per second mean annual flow within its jurisdiction where such use or development will have an adverse effect on designated shorelines.
- Policy LU-23.2.7 Adverse impacts associated with new development in the shoreline should be minimized and mitigated such that there is no net adverse impact to shoreline ecological processes and functions.
- Policy LU-23.2.8 Incentives should be provided to substantially reduce the impacts of existing nonconforming uses on ecological functions. Nonconforming uses should be allowed to expand or be reconfigured if it is demonstrated that the expanded or reconfigured use would reduce the impacts of the existing use on ecological functions.

23.3 Aquaculture

- Policy LU-23.3.1 Aquaculture activities should be designed, located and operated in a manner that supports long-term beneficial use of the shoreline and protects and maintains shoreline ecological processes and functions. Aquaculture should not be permitted where it would result in a net loss of shoreline ecological functions; adversely affect the quality or extent of habitat for native species; adversely impact other habitat conservation areas; or interfere with navigation or other water-dependent uses.
- Policy LU-23.3.2 Aquaculture facilities should be designed, operated and located so as not to cause harm to humans, spread disease to native aquatic life, or establish new non-native species. Aquaculture facilities shall not cause adverse impacts to shoreline ecological processes and functions, aesthetic qualities or public access.
- Policy LU-23.3.3 Preference should be given to those forms of aquaculture that involve the least adverse environmental, visual and native plant and animal species impacts. In general, submerged aquaculture structures are preferred over those that involve substantial floating structures. Projects involving little or no substrate modification are preferred over those that involve substantial modification, recognizing that in some circumstances that importing sand or pea gravel on rocky or cobble substrates may result in more diverse habitat. Projects involving little or no supplemental food sources, pesticides, herbicides or antibiotic application are preferred over those that involve such practices.
- Policy LU-23.3.4 Aquaculture that involves significant risk of cumulative adverse effects on water quality, sediment quality, benthic organisms, and/or wild fish

populations through potential contribution of antibiotic resistant bacteria, or escapement of non-native species, or other adverse effects on native species or threatened or endangered species and their habitats should not be permitted.

- Policy LU-23.3.5 Consideration should be given to both the potential beneficial impacts and potential adverse impacts that aquaculture development might have on the physical environment; on other existing and approved land and water uses, including navigation; or on the aesthetic qualities of a project area.
- Policy LU-23.3.6 Legally established aquaculture uses, including authorized experimental projects, should be protected from incompatible uses that may seek to locate nearby. Uses or developments that have a high probability of damaging or destroying a legally established existing aquaculture use may be denied.
- Policy LU-23.3.7 Community restoration projects associated with aquaculture should be reviewed and permitted in a timely manner.
- Policy LU-23.3.8 Experimental aquaculture projects in water bodies should be limited in scale and should be approved for a limited period of time. Experimental aquaculture means an aquaculture activity that uses methods or technologies that are unprecedented or unproven in the State of Washington.
- Policy LU-23.3.9 Kenmore should actively seek substantive comment on any shoreline permit application for aquaculture from all appropriate Federal, State and local agencies; the Muckleshoot Tribe, the Tulalip Tribes and other tribes with treaty fishing rights; and the general public regarding potential adverse impacts. Comments of nearby residents or property owners directly affected by an aquaculture proposal should be considered and evaluated, especially in regard to use compatibility and aesthetics.
- Policy LU-23.3.10 The rights of treaty tribes to aquatic resources within their usual and accustomed areas should be addressed during the permit review process. Direct and early coordination between the applicant or proponent and the affected tribe should be encouraged.
- Policy LU-23.3.11 Kenmore support should be given to State Departments of Fisheries and Game to improve stream conditions, open new spawning areas, and establish new fish runs.

23.4 Boating facilities

- Policy LU-23.4.1 Boating facilities shall be located only at sites with suitable environmental conditions, shoreline configuration, access, and neighboring uses, and:
1. Meet health, safety and welfare requirements;
 2. Mitigate adverse aesthetic impacts;
 3. Provide public access in new marinas, unless there is a safety or security concern;

4. Limit adverse impacts to shoreline resources from boaters living in their vessels;
5. Ensure no net loss of shoreline ecological processes and functions or other adverse impacts; and
6. Protect the rights of navigation.

Policy LU-23.4.2	The need for additional marinas should be balanced against other shoreline dependent uses.
Policy LU-23.4.3	Local governments should coordinate in the planning and development of regional marina facilities for multi-jurisdictional use.
Policy LU-23.4.4	Marinas should be located only within the Downtown Waterfront and Aquatic shoreline environments.
Policy LU-23.4.5	Marina development and ancillary facilities should be designed to use minimal shoreline.
Policy LU-23.4.6	Parking areas that serve marinas shall conform to the parking regulations of the Kenmore Comprehensive Plan Transportation Element and Shoreline Master Program transportation and parking policies.
Policy LU-23.4.7	Marinas should be planned to minimize traffic congestion and pedestrian/vehicle conflicts.
Policy LU-23.4.8	Dry storage of boats should be encouraged in order to retain shoreline for other shoreline dependent uses or so that the greatest number of boats per foot of shoreline frontage can be accommodated.
Policy LU-23.4.9	Viewpoints, walkways, picnic facilities, benches, telephones, restrooms, drinking fountains and other public use facilities should be encouraged at marinas.
Policy LU-23.4.10	Covered moorage should be discouraged except for vessel repair or construction activity.
Policy LU-23.4.11	Setbacks should be established for upland boating facilities to protect shoreline ecological processes and functions, provide space for shoreline vegetation preservation and enhancement, minimize adverse impacts to views of the water by the public and adjacent residents, and protect the visual quality of views of the shoreline.
Policy LU-23.4.12	Marinas should be allowed to have live-aboard tenants provided they are limited to 10 percent of the boat slips in the marina, are occupied by single-family tenants, and the marina has adequate on-land and pump-out facilities. Where underlying zoning restrictions would otherwise prohibit live-aboards, such as through a P-suffix condition, those conditions should be removed if it has been demonstrated that compliance with the Shoreline Code will adequately address adverse impacts from live-aboards.

23.5 Commercial

Preference should be given to water-dependent commercial uses over nonwater-dependent commercial uses, then water-related and water-enjoyment commercial uses over nonwater-oriented commercial uses. Some commercial uses within the shoreline jurisdiction may be required to incorporate appropriate design and operational elements to qualify as water-related or water-enjoyment.

- | | |
|------------------|---|
| Policy LU-23.5.1 | Kenmore shall require all commercial development on public land to provide public access, unless the use is incompatible or there are public safety concerns. |
| Policy LU-23.5.2 | <p>Kenmore shall prohibit nonwater-oriented commercial uses in the shoreline jurisdiction unless they meet the following criteria:</p> <ol style="list-style-type: none">1. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and/or ecological restoration; or2. Navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives, such as providing public access and/or ecological restoration. |
| Policy LU-23.5.3 | Kenmore may allow nonwater-oriented commercial development in the shoreline jurisdiction if the site is physically separated from the shoreline by another property or public right-of-way, provided that a property should not be allowed to be subdivided in a manner that would thwart the purposes of this policy. |
| Policy LU-23.5.4 | Kenmore shall allow over-water nonwater-dependent commercial uses only in existing structures or if the use is auxiliary to and necessary to support a water-dependent use. The area of any over-water structure shall be the minimum possible. |
| Policy LU-23.5.5 | Kenmore shall prohibit commercial development that will have adverse impacts on other shoreline uses, resources and values such as navigation, recreation and public access, and views. Kenmore shall require mitigation for all commercial development to ensure that it does not cause a net loss of ecological processes and functions. |
| Policy LU-23.5.6 | Setbacks should be established for commercial development in the shoreline jurisdiction to protect shoreline ecological processes and functions, provide space for shoreline vegetation preservation and enhancement, minimize adverse impacts to views of the water by the public and adjacent uses, protect the visual quality of views of the shoreline, and allow for public access. |
| Policy LU-23.5.7 | Boat moorage, launching facilities and other services should be located where existing vehicular access and parking are available or can be made available. |

- Policy LU-23.5.8 The use of porous materials should be encouraged for paved areas to allow water to infiltrate into the soil. Use of holding systems should be encouraged to control the runoff rate from parking lots and roof tops where the runoff would flow to Swamp Creek or any stream that is prone to flooding.

23.6 Industrial

- Policy LU-23.6.1 Kenmore will give preference to all other uses before industrial uses. Kenmore shall give preference to industrial uses in the following order: first, water-dependent industrial uses; second, water-related industrial uses; and third, nonwater-oriented industrial uses.
- Policy LU-23.6.2 Kenmore should encourage public access on existing industrial sites in the shoreline jurisdiction, unless Kenmore determines that public access is infeasible or inappropriate.
- Policy LU-23.6.3 Kenmore should encourage redevelopment, environmental clean up and shoreline restoration on existing industrial sites.
- Policy LU-23.6.4 Kenmore should prohibit new nonwater-oriented industrial development in the shoreline jurisdiction, except when the use is part of a mixed-use project that includes water-dependent uses or the use provides a significant public benefit with respect to the Shoreline Management Act's objectives, such as providing public access and/or ecological restoration.
- Policy LU-23.6.5 Kenmore may allow nonwater-oriented industrial uses in the shoreline jurisdiction if the site is physically separated from the shoreline by another property or public right-of-way.
- Policy LU-23.6.6 Setbacks should be established for industrial development in the shoreline jurisdiction to protect shoreline ecological processes and functions, provide space for shoreline cleanup if necessary, provide space for vegetation preservation and enhancement, minimize adverse impacts to views of the water by the public and adjacent uses, and improve the visual quality of views of the shoreline.
- Policy LU-23.6.7 Industrial docks and piers should be designed to minimize adverse impact of such facilities upon other water-dependent uses and resources.
- Policy LU-23.6.8 Industrial and commercial activities should be encouraged to share overwater structures and shoreline facilities.
- Policy LU-23.6.9 Water reclamation plants, power plants, and sewage treatment facilities should be located where they are compatible with adjacent uses and do not interfere with recreational, residential, or other public uses of the shoreline.

23.7. In-Water Structures

In-water structure means a structure placed by humans within a stream, river, or lake waterward of the ordinary high-water mark that either causes or has the potential to cause water impoundment or the

diversion, obstruction, or modification of water flow. In-water structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish collection, or other purposes.

Policy LU-23.7.1 In-water structures shall provide for the protection and preservation of shoreline ecological processes and functions, and cultural resources including, but not limited to, fish and fish passage, wildlife and water resources, critical areas, hydro-geological processes, and natural scenic vistas.

Policy LU-23.7.2 Planning for in-water structures shall give due consideration to the full range of public interests and ecological processes and functions, with special emphasis on protecting and restoring habitat for threatened or endangered species.

23.8. Mining

Kenmore has not identified any shoreline areas where mining may be appropriate.

Policy LU-23.8.1 Mining shall be prohibited in the shoreline jurisdiction.

23.9. Recreation

Recreational development includes commercial and public facilities designed and used to provide recreational opportunities to the public. Recreational development should be given priority and is to be primarily related to access to and enjoyment and use of the water and shorelines of the state.

Policy LU-23.9.1 Recreational development is allowed in the shoreline jurisdiction and must be consistent with the purposes of the shoreline environment designation in which the property is located.

Policy LU-23.9.2 Kenmore shall plan to provide public recreational uses on city-owned shoreline, consistent with the goals of this chapter.

Policy LU-23.9.3 Recreational improvements and new facilities should be constructed so that they preserve the natural character of the shoreline.

Policy LU-23.9.4 All recreational developments should be sited to enhance and protect shoreline ecological processes and functions.

Policy LU-23.9.5 New recreational buildings should be made sympathetic to the scale, form, and proportion of older development, to promote harmony in the visual relationships and transitions between new and older buildings.

Policy LU-23.9.6 The use of conventional fertilizers and pesticides in public recreation areas should be minimized or replaced with ecologically friendly landscape management methods.

Policy LU-23.9.7 Public recreational shoreline areas should serve as emergency refuge areas for boaters.

- | | |
|-------------------|---|
| Policy LU-23.9.8 | Visual access to the water should be pursued on steep slopes, at view points from bluffs and stream valleys, and in general where it is consistent with public safety and where extensive flood or erosion protection would not be necessary. |
| Policy LU-23.9.9 | The acquisition of public easements to the shoreline should be encouraged. |
| Policy LU-23.9.10 | Setbacks should be established for recreational development in the shoreline jurisdiction to protect shoreline ecological processes and functions, provide space for shoreline vegetation preservation and enhancement, minimize adverse impacts to views of the water by the public and adjacent uses, and protect the visual quality of views of the shoreline. |
| Policy LU-23.9.11 | Existing public recreation shorelines should be restored and, where possible, Kenmore should revegetate the shoreline, re-site roads and parking areas further away from the shoreline, and remove stream channelization and shoreline protection devices. |
| Policy LU-23.9.12 | Prime fishing areas should be given priority and protected for recreational use. |
| Policy LU-23.9.13 | Boating activities that increase shore erosion should be discouraged. |
| Policy LU-23.9.14 | Effective interpretation should be provided to raise the quality of visitor experiences and to provide an understanding of the resource. |

23.10. Residential

The term “residential development” includes single-family detached dwellings, attached and multifamily dwelling units, and subdivision of shoreline land into new residential lots. The Shoreline Management Act recognizes single-family residential development as a priority use within shorelines of the state.

- | | |
|-------------------|---|
| Policy LU-23.10.1 | Single-family residential development is a priority use in the shoreline jurisdiction in Kenmore. |
| Policy LU-23.10.2 | Setbacks should be established for residential development in the shoreline jurisdiction to protect shoreline ecological processes and functions, provide space for shoreline vegetation preservation and enhancement, minimize adverse impacts to views of the water by the public and adjacent residents, and protect the visual quality of views of the shoreline. |
| Policy LU-23.10.3 | New shoreline residential development, including accessory structures and uses, should be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that shoreline stabilization is not required to protect these structures and uses. |
| Policy LU-23.10.4 | New over-water residences, including floating homes, are prohibited in the shoreline jurisdiction. |
| Policy LU-23.10.5 | Kenmore should require multi-family residential development and subdivisions within the shoreline jurisdiction to provide community or public access. |
| Policy LU-23.10.6 | Kenmore shall require subdivisions to: |

1. Be designed, configured and developed in a manner that ensures no net loss of ecological processes and functions at full build-out of all lots;
2. Be designed, configured and developed in a manner that prevents the need for new shoreline stabilization or flood risk reduction measures; and
3. Be consistent with the provisions and policies for shoreline environment designations and the general policy goals of this Plan.

- Policy LU- 23.10.7 Residential development in flood hazard areas and channel migration areas shall be consistent with KMC 18.55.700-750.
- Policy LU- 23.10.8 Residential development in geologically hazardous areas shall be consistent with KMC 18.55.600-650.
- Policy LU- 23.10.9 In residential developments, the water's edge should be kept free of fences.
- Policy LU-23.10.10 Every reasonable effort should be made to ensure the retention of native shoreline vegetation and other natural features of the landscape during site development and construction.
- Policy LU-23.10.11 The City should explore creation of a planned unit development (PUD) process to be employed within redeveloping areas of the shoreline area so that all facets of the development can be examined.
- Policy LU-23.10.12 Residential developments should be designed to enhance the appearance of the shoreline and not substantially interfere with the public's view and access to the water.
- Policy LU-23.10.13 Residential developments should be permitted only where there are adequate provisions for utilities, circulation, access, site layout and building design.
- Policy LU-23.10.14 Residential development plans submitted for approval should contain provisions for protection of groundwater, erosion control, water quality, aesthetic characteristics and landscaping.
- Policy LU-23.10.15 Subdivisions should provide public pedestrian access to the shorelines within the development in accordance with this Master Program.
- Policy LU-23.10.16 Streets, roadways and roadway easements, whether publicly or privately owned, within the boundaries of any waterfront parcel, should not be used to compute lot area, lot dimensions, yards, open space or other required conditions of land subdivision or development.

23.11. Transportation and Parking

Transportation and parking facilities may be necessary to support shoreline uses, to support the regional economy, and for access to privately owned property in the shoreline. Transportation planning in shorelines should not be focused only on automobiles, but should consider a wide range of options, including buses, light rail, commuter rail, bicycle, passenger-only ferries, and pedestrian facilities. Transportation planning can be a tool for finding opportunities to provide public access to the shorelines.

- Policy LU-23.11.1 Kenmore shall require transportation and parking plans and projects to be consistent with the public access policies in this Plan, the Comprehensive Plan Transportation Element, and shoreline and critical area protection provisions.
- Policy LU-23.11.2 Circulation planning and projects should support existing and proposed shoreline uses that are consistent with the Kenmore Shoreline Master Program. Where appropriate, circulation system planning should include systems for pedestrian, bicycle and public transportation and combining transportation uses to minimize the footprint of transportation facilities.
- Policy LU-23.11.3 Transportation and parking facilities shall be planned, located and designed to have the least possible adverse impact on environmentally critical areas in the shoreline, not result in a net loss of shoreline ecological processes and functions or adversely affect existing or planned water-dependent uses. Where other options are available and feasible, new transportation facilities or transportation facility expansions should not be constructed within the shoreline jurisdiction.
- Policy LU-23.11.4 Parking facilities shall be prohibited in the Aquatic shoreline environment unless necessary to support a water-dependent use, and then should be only allowed if no alternative exists, and should be the minimum needed to support the use.
- Policy LU-23.11.5 Existing public recreation shorelines should be restored and, where possible, Kenmore should revegetate the shoreline, re-site roads and parking areas further away from the shoreline, and remove stream channelization and shoreline protection devices.
- Policy LU-23.11.6 Setbacks should be established for new transportation and parking facilities in the shoreline jurisdiction to protect shoreline ecological processes and functions, provide space for shoreline vegetation preservation and enhancement, and protect the visual quality of views of the shoreline. New parking facilities shall not impede the provision of new shoreline public access facilities and opportunities.
- Policy LU-23.11.7 Shoreline transportation facilities should be designed, located and maintained to fit the topography, minimize cuts and fills, and minimize erosion.
- Policy LU-23.11.8 Transportation and utility facilities should be encouraged to coordinate joint use of rights-of-way and to consolidate crossings of water bodies when adverse impacts to the shoreline can be minimized by doing so.

- Policy LU-23.11.9 Shoreline roadways should have a high priority for arterial beautification funds.
- Policy LU-23.11.10 Transportation facilities crossing 100-year floodplains should be constructed on low profile designs so as not to function as dikes or levees to flood waters.
- Policy LU-23.11.11 Passenger only ferry facilities should be encouraged.
- Policy LU-23.11.12 Abandoned road or railroad rights-of-way that contain unique shoreline amenities should be acquired for public benefit.
- Policy LU-23.11.13 Kenmore should extend its pedestrian and bicycle trail system along the Sammamish River shoreline.

23.12 Utilities

Utilities include services and facilities that produce, convey, store, or process power, gas, water, sewage, stormwater, communications, oil, or waste. Utilities that are classified as on-site utilities serving only one primary use are considered “accessory utilities” and are considered part of the primary use.

- Policy LU-23.12.1 Utility facilities shall be designed and located to ensure no net loss of shoreline ecological processes and functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses, while meeting the needs of the projected future population in Kenmore.
- Policy LU-23.12.2 Kenmore shall allow modification of existing utility facilities and the location of new water-oriented portions of utility facilities in the shoreline jurisdiction provided that a mitigation sequence is applied per KMC 18.55.210 and there is no net loss of ecological processes and functions. As feasible, those parts of utility production and processing facilities that are not water-oriented, such as power plants and sewage treatment plants, shall be located outside of the shoreline jurisdiction.
- Policy LU-23.12.3 Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline jurisdiction where feasible. Transmission facilities located within the shoreline jurisdiction shall ensure no net loss of shoreline ecological processes and functions.
- Policy LU-23.12.4 Utilities should be located in existing developed rights-of-way and corridors whenever possible.
- Policy LU-23.12.5 Unless no other feasible alternative location exists, Kenmore should discourage the development of facilities that may require periodic maintenance that adversely affects shoreline ecological processes and functions.
- Policy LU-23.12.6 Setbacks should be established for new utility facilities in the shoreline jurisdiction to protect shoreline ecological processes and functions, provide space for shoreline vegetation preservation and enhancement, minimize adverse impacts to views of the water by the public and adjacent uses, and protect the visual quality of views of the shoreline.

- Policy LU-24.12.2 Utilities located in wetlands and floodplains inappropriate for development should not make service available to those areas.
- Policy LU-23.12.7 Public access consistent with public safety and security should be encouraged where rights-of-way for utility facilities are located in shorelines of the state.
- Policy LU-23.12.8 New utility routes should be designed to minimize adverse impacts on views from the water and adjacent uplands.

23.13 Outdoor Advertising Signs and Billboards

- Policy LU-23.13.1 Vistas and viewpoints should be free from unnecessary signs.
- Policy LU-23.13.2 Signs, when permitted, should be placed so as not to impair views of the water or impair views upland from the water except where hazardous shoreline conditions require warning signs.
- Policy LU-23.13.3 Warning signs should be installed by Kenmore or by other appropriate entities where hazardous shoreline conditions may exist.
- Policy LU-23.13.4 Advertising signs, when permitted, should be limited to shoreline areas of high intensity use.
- Policy LU-23.13.5 Signs in shoreline areas should be maintained in a state of security, safety and repair.
- Policy LU-23.13.6 Any new sign codes for Kenmore should recognize the unique aesthetic character and ecological qualities of shoreline areas.

23.14 Conditional Uses

For the purposes of the Kenmore Shoreline Master Program, a shoreline conditional use may be appropriate in order to:

1. Effectively address unanticipated uses that are not classified in the Shoreline Master Program;
2. Address cumulative impacts; or
3. Provide the opportunity to require specially tailored environmental analysis or design criteria for types of use or development that may otherwise be inconsistent with a specific designation within the Shoreline Master Program or with the Shoreline Management Act policies.

- Policy LU-23.14.1 The following types of uses and development should require a shoreline conditional use permit:
1. Uses and development that may significantly impair or alter the public's use of the water areas of the state; and

2. Uses and development which, by their intrinsic nature, may have an adverse impact on shoreline ecological processes and functions depending on location, design, and site conditions.

24. Shoreline Modification

General Modification Policies

- | | |
|------------------|--|
| Policy LU-24.1.1 | Allow structural shoreline modifications only where they are demonstrated to be necessary to support or protect an allowed primary structure or legally existing shoreline use that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes. |
| Policy LU-24.1.2 | Reduce the effects of shoreline modifications and, as much as possible, limit shoreline modifications in number and extent. |
| Policy LU-24.1.3 | Allow only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed. |
| Policy LU-24.1.4 | Ensure that shoreline modifications individually and cumulatively do not result in a net loss of ecological processes or functions. |
| Policy LU-24.1.5 | Shoreline modifications that have the least adverse impact on ecological processes and functions should be prioritized and mitigation should be required for any impacts resulting from shoreline modifications. |
| Policy LU-24.1.6 | Incentives should be provided to substantially reduce the impacts of existing nonconforming structures on ecological functions. Nonconforming docks should be allowed to expand or be reconfigured only when the structure would reduce the impacts on critical fish habitat. Nonconforming bulkheads should be allowed to be reconstructed if they provide a pocket cove or beach and substantially reduce impacts on ecological functions. |

24.2. Shoreline Stabilization

Shoreline stabilization includes actions taken to address adverse erosion impacts to property and dwellings, businesses or structures caused by natural processes, such as current, flood, wind or wave action. Shoreline stabilization includes structural and nonstructural methods. Nonstructural methods include building setbacks, relocation of structures to be protected, groundwater management, planning and regulatory measures to avoid the need for structural stabilization. When structural stabilization is needed, “soft” methods can be used instead of “hard” methods (such as bulkheads, rip rap and groins) in some cases. Soft methods of shoreline stabilization include, but are not limited to, vegetation enhancement; upland drainage control; biotechnical measures; beach enhancement; and anchor trees.

- | | |
|------------------|--|
| Policy LU-24.2.1 | Kenmore shall require shoreline stabilization to be consistent with WAC 173-26-221(5) for vegetation retention and WAC 173-26-221(2) for protection of critical areas. |
|------------------|--|

- | | |
|-------------------|--|
| Policy LU-24.2.2 | Kenmore shall adopt standards to first avoid then mitigate adverse impacts to shoreline ecological processes and functions when alteration of the shoreline is allowed for the construction of single detached dwelling units and accessory structures. These standards shall address the design and type of protective measures and devices that are allowed. |
| Policy LU-24.2.3 | Kenmore shall require new development on steep slopes to be set back sufficiently to ensure that the need for shoreline stabilization is unlikely during the life of the structure, as demonstrated by a geotechnical analysis. |
| Policy LU-24.2.4 | Shoreline stabilization decisions should consider available scientific information and current shoreline conditions. |
| Policy LU-24.2.5 | Avoid and reduce adverse impacts from shoreline stabilization according to the mitigation sequence in General Shoreline Management Policies for Conservation – Critical Areas (Policy LU-21.3.2) and WAC 173-26-201(2)(e). Shoreline planning should consider off-site erosion, accretion or flood damage that might occur as a result of shoreline stabilization structures or activities. |
| Policy LU-24.2.6 | Shoreline stabilization on Lake Washington shorelines should not be used as the reason for creating new or newly usable land. |
| Policy LU-24.2.7 | Shoreline stabilization structures should allow passage of ground and surface waters into shorelines of the state. |
| Policy LU-24.2.8 | Shoreline stabilization should not reduce the volume and storage capacity of the Sammamish River, Swamp Creek and adjacent wetlands or floodplains. |
| Policy LU-24.2.9 | Sammamish River and Swamp Creek shoreline stabilization should be planned, designed, and constructed to allow for channel relocation or stream meander whenever possible. |
| Policy LU-24.2.10 | Appropriate soft shore armoring methods, as determined by a qualified specialist, should be used for shoreline stabilization when necessary to protect existing property or, when for new development, no options exist to locate in such a manner as to avoid shoreline stabilization. |
| Policy LU-24.2.11 | <p>Kenmore shall allow new hard structural stabilization measures only as follows:</p> <ol style="list-style-type: none">1. The proposal is the minimum necessary to protect existing legally established primary structures, new nonwater-dependent development, and existing or proposed water-dependent development and structures, and:<ol style="list-style-type: none">a. The erosion is not the result of upland conditions, such as the loss of vegetation and drainage;b. Nonstructural measures, such as locating the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient; |

- c. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report submitted by a qualified specialist. The damage must be caused by natural processes; and
 - d. Mitigation is provided such that the erosion control structure will not result in a net loss of shoreline ecological processes and functions.
2. The proposal would protect shoreline restoration projects or hazardous substance remediation projects, and:
- a. Nonstructural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not sufficient; and
 - b. The erosion control structure will not result in a net loss of shoreline ecological processes and functions.

Policy LU-24.2.12	The burden of proof for the need for shoreline stabilization to protect existing or proposed developments rests on the applicant(s).
Policy LU-24.2.13	Shoreline stabilization activities which may necessitate new or increased shoreline stabilization on the same or other affected properties where there has been no previous need for protection, should be discouraged.
Policy LU-24.2.14	New development should be located and designed to avoid the need for future shoreline stabilization.
Policy LU-24.2.15	Areas of significance in the spawning, nesting, rearing or residency of aquatic and terrestrial biota should be given special consideration when reviewing shoreline stabilization actions.
Policy LU-24.2.16	Multiple use of shoreline stabilization structures or non-structural solutions should be encouraged.
Policy LU-24.2.17	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.
Policy LU-24.2.18	Kenmore shall require replacement of shoreline stabilization structures to be designed, located, sized, and constructed to ensure no net loss of ecological processes and functions or, if infeasible to provide such protection, to use the approach with the least adverse impacts and provide mitigation for unavoidable impacts.
Policy LU-24.2.19	Replacement walls or bulkheads protecting a residence shall not encroach waterward of the ordinary high-water mark, unless the residence was occupied prior to January 21, 1992, and there are overriding safety and environmental concerns. In cases where there are overriding safety and environmental concerns, the replacement wall or bulkhead structure shall abut the existing shoreline stabilization structure and may be located on the waterward side of the existing wall or bulkhead structure.

- Policy LU-24.2.20 When shoreline stabilization is proposed, Kenmore shall require a geotechnical report to address the need to prevent potential damage to a primary structure. The report shall estimate time frames and rates of erosion and the urgency associated with the specific situation. Kenmore should not allow hard armoring solutions, unless a geotechnical report confirms that there is a significant possibility that the structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is immediate would foreclose the opportunity to use measures that avoid adverse impacts to ecological processes and functions. If the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, the report may still be used to justify more immediate authorization to protect against erosion using soft measures.
- Policy LU-24.2.21 If structural shoreline stabilization measures are demonstrated to be necessary, Kenmore shall limit the size of stabilization measures to the minimum necessary.
- Policy LU-24.2.22 Kenmore shall ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline, except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological processes and functions. Where feasible, Kenmore shall require ecological restoration and public access improvements to be incorporated into the project.
- Policy LU-24.2.23 Adverse impacts of erosion and mass wasting should be mitigated through protection of geologically hazardous areas.

24.3 Piers and Docks

- Policy LU-24.3.1 Kenmore shall allow new piers and docks only for water-dependent uses or public access. If it is designed and intended solely as a facility for access to watercraft, a dock associated with a single-family residence is considered a water-dependent use.
- Policy LU-24.3.2 Kenmore shall require pier and dock construction to be limited to the minimum size necessary to meet the needs of the proposed water-dependent use.
- Policy LU-24.3.3 Kenmore may allow water-related and water-enjoyment uses as part of mixed-use development on over-water structures where they are clearly auxiliary to and in support of water-dependent uses, provided the structure is the minimum size required to serve the water-dependent use.
- Policy LU-24.3.4 Kenmore shall allow new pier or dock construction, excluding docks accessory to single-family residences, only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses.
- Policy LU-24.3.5 Kenmore shall require new residential development of two or more dwelling units to provide community dock facilities, when feasible, rather than individual docks for each dwelling unit. Kenmore shall allow only one pier or dock associated with residential development on a parcel.

- | | |
|-------------------|--|
| Policy LU-24.3.6 | Kenmore shall require piers and docks, including those accessory to single-family residences, to be designed and constructed to avoid and then minimize and mitigate the adverse impacts to ecological processes and functions. Piers and docks should be constructed of non-toxic materials. Where toxic materials, such as treated wood, are proposed, the proponent must show that no non-toxic alternative exists. |
| Policy LU-24.3.7 | Open pile pier construction should be preferred where scenic values will not be impaired and where there will be no net loss of ecological processes and functions. |
| Policy LU-24.3.8 | Floating pier construction should be preferred in those areas where scenic values are high. |
| Policy LU-24.3.9 | Piers and docks should be discouraged where conflicts with recreational boaters and other recreational water activities would be created by pier construction. |
| Policy LU-24.3.10 | Preference should be given to shared use of piers in all shoreline areas. |
| Policy LU-24.3.11 | Temporary moorages should be permitted for vessels used in the construction of shoreline facilities. The design and construction of such moorages shall be such that upon termination of the project the aquatic life can be returned to their original condition within one year at no cost to the environment or the public. |
| Policy LU-24.3.12 | Shoreline structures that are abandoned or structurally unsafe should be abated. |
| Policy LU-24.3.13 | Substantial additions or alterations, including, but not limited to, substantial developments, should be in conformance with the policies and regulations set forth in the Shoreline Master Program. |
| Policy LU-24.3.14 | Piers and docks should not interfere with navigation. |

24.4 Fill

Fill means the addition of soil, sand, rock, gravel, sediment, earth retaining structures, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. Fill is not permitted within the 100-year floodplain without providing compensatory flood storage to prevent a rise in the base flood, which is a flood having a one percent chance of being equaled or exceeded in any given year, often referred to as the "100-year flood." Fill can adversely affect ecological processes and functions, including channel relocation or stream meander.

- | | |
|------------------|---|
| Policy LU-24.4.1 | Kenmore shall require fill to be located, designed, and constructed to protect shoreline ecological processes and functions and ecosystem-wide processes, including channel migration, stream meander and side channels. Mitigation shall be required consistent with Policy LU 21.3.2. |
| Policy LU-24.4.2 | Kenmore shall allow fill waterward of the ordinary high-water mark allowed only when necessary to support: |

1. Water-dependent use;
2. Public access;
3. Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan;
4. Disposal of dredged material considered suitable under, and conducted in accordance with, the dredged material management program of the Washington Department of Natural Resources;
5. Expansion or alteration of SR 522 in the shoreline and then only upon a demonstration that alternatives to fill are not feasible; or
6. Mitigation actions, environmental restoration, beach nourishment, enhancement projects and flood risk reduction projects.

Policy LU-24.4.3 Kenmore shall require a shoreline conditional use permit for fill waterward of the ordinary high-water mark for any use except ecological restoration and maintenance, repair and replacement of flood protection facilities.

Policy LU-24.4.4 Fill should be deposited so as to minimize disruption of normal surface and ground water passage.

Policy LU-24.4.5 Fill should allow surface water penetration into the ground water supply where such conditions existed prior to fill.

Policy LU-24.4.6 Fill within the 100-year floodplain should not reduce the river channel or floodplain water storage capacity, reduce the channel migration zone, or in any way increase flood hazard so as to endanger public safety.

Policy LU-24.4.7 Land should be filled only after some ultimate use of the property is approved by Kenmore in accordance with the Comprehensive Plan and this Shoreline Master Program.

Policy LU-24.4.8 Fill should be done at such time as to minimize damage to ecological processes and functions.

Policy LU-24.4.9 Beach nourishment areas may be established by Kenmore on Lake Washington.

24.5 Breakwaters, Groins and Weirs

Breakwaters, groins, and weirs are all structural elements that are constructed to absorb or deflect wave action or to control excess sediment. A breakwater is an off-shore structure, either floating or not, which may or may not be connected to the shore and is designed to absorb and reflect back into the water body the energy of the waves. A groin is a barrier-type structure extending from the backshore into the water across the beach, which is constructed to interrupt sediment movement along the shore. A weir is a small dam in a stream or river to control the flow of water. These structural elements should be allowed only under limited circumstances as they can have adverse effects on ecological processes and functions.

- | | |
|------------------|---|
| Policy LU-24.5.1 | Kenmore shall allow breakwaters and weirs located waterward of the ordinary high-water mark only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purposes. |
| Policy LU-24.5.2 | Groins are prohibited except as a component of a publicly-sponsored project to protect or restore shoreline ecological processes and functions. |
| Policy LU-24.5.3 | Kenmore shall require a shoreline conditional use permit for the construction of breakwaters, groins, weirs, and similar structures, except for those structures installed to protect or restore ecological processes and functions, such as woody debris installed in streams. |
| Policy LU-24.5.4 | Breakwaters, groins, and weirs shall be designed to protect critical areas and shall provide for mitigation according to the sequence defined in General Shoreline Management Policies for Conservation – Critical Areas (Policy LU-21.3.2) and WAC 173-26-201(2)(e). |
| Policy LU-24.5.5 | Reduction of the opportunity to use surface water area which may result from breakwater construction should be weighed against the benefits of reduced wave action. |
| Policy LU-24.5.6 | Applicants for breakwaters, groins or weirs should consider structural alternatives and the related effects on ecological processes and functions. |
| Policy LU-24.5.7 | Breakwater, groin and weir design should include provisions for compatible public access or recreational uses when consistent with navigation and when public safety can be ensured. |
| Policy LU-24.5.8 | Care should be exercised in location, design, construction and expansion of breakwaters, groins and weirs relative to the shoreline environments and other shoreline dependent uses. |
| Policy LU-24.5.9 | Beach nourishment should be considered where breakwaters or groins affect shorelines. |

24.6 Dredging

Dredging is the removal, displacement, or disposal of unconsolidated earth material such as sand, silt, gravel, or other submerged materials, from the bottom of water bodies, ditches, or natural wetlands. Long-term maintenance and support activities are also considered dredging. Dredging can cause significant ecological damage. Mitigation measures should be required to ensure no net loss of ecological processes and functions.

- | | |
|------------------|---|
| Policy LU-24.6.1 | Kenmore shall require that new development should be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging. |
| Policy LU-24.6.2 | Kenmore shall allow dredging for the purpose of establishing, expanding, or relocating or reconfiguring navigation channels and basins when necessary to ensure safe and efficient accommodation of existing navigational uses. Adverse ecological impacts shall be minimized and mitigation shall be |

provided such that there is no net loss of ecological processes and functions. Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged or existing authorized location, depth, and width.

- Policy LU-24.6.3 Kenmore shall not allow dredging waterward of the ordinary high-water mark for the primary purpose of obtaining fill material, except when the material is necessary for the restoration of ecological processes and functions. When allowed, the site where the fill is to be placed shall be located waterward of the ordinary high-water mark. The project must be either associated with a habitat restoration project under the Model Toxics Control Act or the Comprehensive Environmental Response, Compensation, and Liability Act, or, if approved through a shoreline conditional use permit, any other significant habitat enhancement project.
- Policy LU-24.6.4 Kenmore shall not allow disposal of dredge material on shorelands and in side channels within a channel relocation or stream meander area. Kenmore shall not allow disposal of dredge material in wetlands located within the shoreline jurisdiction. In the limited instances where it is allowed, such disposal shall require a shoreline conditional use permit.
- Policy LU-24.6.5 Dredging and excavation in environmentally critical areas within the shoreline should not be allowed.
- Policy LU-24.6.6 Dredging operations should be scheduled so as to not materially interfere with the migration of native fish.
- Policy LU-24.6.7 When dredged spoil has suitable organic and physical properties, dredging operators should be encouraged to recycle dredged material for reuse.
- Policy LU-24.6.8 Dredging should be allowed only in the Aquatic shoreline environment and to support water dependent uses.
- Policy LU-24.6.9 Disposal of dredge and excavation spoils within shorelines should be prohibited except when the material is necessary for the restoration of ecological processes and functions.

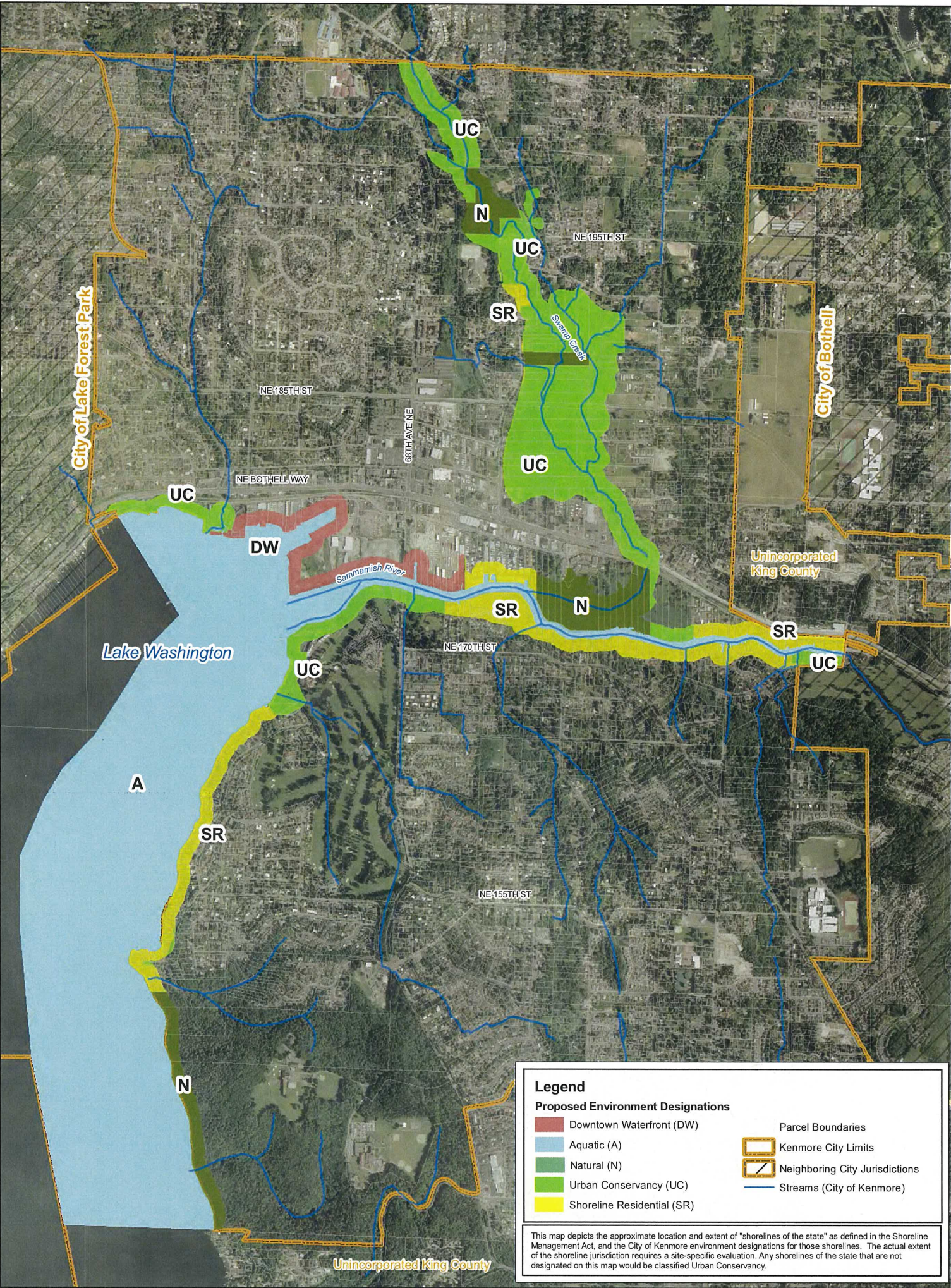
24.7 Restoration and enhancement

Shoreline habitat and natural systems enhancement projects should be supported and coordinated with other plans and regulations, such as salmon conservation plans, the King County Flood Hazard Reduction Plan and Flood Control Zone District, and flood hazard management policies in the Kenmore Comprehensive Plan Natural Environment Sub-Element and Surface Water Element.

- Policy LU-24.7.1 Kenmore should allow for habitat and natural systems enhancement projects that include, but are not limited to:
1. Modification of vegetation;
 2. Removal of non-native or invasive plants;

3. Shoreline stabilization using soft or non-structural techniques; and
4. Dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological processes and functions of the shoreline.

Policy LU-24.7.2 Habitat and natural systems enhancement projects should ensure that the projects address legitimate restoration needs and priorities and facilitate implementation of Kenmore's Shoreline Restoration Plan.



Shoreline Master Program Update City of Kenmore



ESA Adolfson

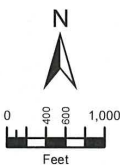


Figure LU-12
Shoreline Environment Designations Map

SOURCE: King County, (2002)2007; City of Kenmore, 2007; ESA Adolfson, 2008

G:\ENVIR IMPACTS\2007 Projects\207204_KenmoreSMP\05_GRAPHICS_GIS_MODELING\GIS\CompPlan_SED.mxd (MJL; 09/06/2011)

**Chapter 16.90
FLOOD DAMAGE PREVENTION**

Sections:

[16.90.010 Findings of fact.](#)

[16.90.020 Statement of purpose.](#)

[16.90.030 Methods of reducing flood losses.](#)

[16.90.040 Definitions.](#)

[16.90.050 Lands to which this chapter applies.](#)

[16.90.060 Basis for establishing the areas of special flood hazard.](#)

[16.90.070 Penalties for noncompliance.](#)

[16.90.080 Abrogation and greater restrictions.](#)

[16.90.090 Interpretation.](#)

[16.90.100 Warnings and disclaimer of liability.](#)

[16.90.110 Establishment of development permit.](#)

[16.90.120 Designation of the local administrator.](#)

[16.90.130 Duties and responsibilities of the local administrator.](#)

[16.90.140 Variance procedure.](#)

[16.90.150 General standards.](#)

[16.90.160 Specific standards.](#)

[16.90.170 Floodways.](#)

[16.90.180 Encroachments.](#)

[16.90.190 Standards for shallow flooding areas \(AO Zones\).](#)

[16.90.200 Critical facility.](#)

16.90.010 Findings of fact.

A. The flood hazard areas of the City of Kenmore are subject to periodic inundation which results in

loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 1. Formerly 16.40.010.]

16.90.020 Statement of purpose.

It is the purpose of this chapter 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 to:

- A. Protect human life and health;
- B. Minimize expenditure of public money and costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. 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;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 2. Formerly 16.40.020.]

16.90.030 Methods of reducing flood losses.

In order to accomplish its purposes, this chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or may increase flood hazards in other areas. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 3. Formerly 16.40.030.]

16.90.040 Definitions.

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

- A. "Appeal" means a request for a review of the interpretation of any provision of this chapter or a request for a variance.
- B. "Area of shallow flooding" means a designated AO or AH Zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.
- C. "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter "A" or "V."
- D. "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." Designation on maps always includes the letter "A" or "V."
- E. "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
- F. "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.
- G. "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 through V30, VE or V.
- H. "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, or installations which produce, use or store hazardous materials or hazardous waste.

I. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

J. "Elevated building" means, for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

K. "Existing manufactured home park or subdivision" means a manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

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

M. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

N. "Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

O. "Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

P. "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.

Q. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or

storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter found in KMC [16.90.160\(A\)\(2\)](#).

R. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

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

T. "New construction" means structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter.

U. "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the adopted floodplain management regulations.

V. "Recreational vehicle" means a vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

W. "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation of the property or accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a 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.

X. "Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground.

Y. "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.

Z. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

3. 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
4. Any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

AA. "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

BB. "Water-dependent" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 4. Formerly 16.40.040.]

16.90.050 Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Kenmore. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 5. Formerly 16.40.050.]

16.90.060 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study of King County, Washington and Incorporated Areas," dated April 9, 2005, with an accompanying flood insurance map (FIRM), dated November 8, 1999, and May 16, 1995, and any revisions thereto, are hereby adopted by reference

and declared to be a part of this chapter. The flood insurance study is on file at Kenmore City Hall. The best available information for flood hazard area identification as outlined in KMC [16.90.130\(B\)](#) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under KMC [16.90.130\(B\)](#). [Ord. 13-0354 § 1; Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 6. Formerly 16.40.060.]

16.90.070 Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein contained shall prevent the City of Kenmore from taking such other lawful action as is necessary to prevent or remedy any violation. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 7. Formerly 16.40.070.]

16.90.080 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 8. Formerly 16.40.080.]

16.90.090 Interpretation.

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

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under State statutes. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 9. Formerly 16.40.090.]

16.90.100 Warnings and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Kenmore, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 10. Formerly 16.40.100.]

16.90.110 Establishment of development permit.

A. Development Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in KMC [16.90.060](#). The permit shall be for all structures including manufactured homes, as set forth in KMC [16.90.040](#), and for all development including fill and other activities, also as set forth in KMC [16.90.040](#).

B. Application for Development Permit. Application for a development permit shall be made on forms furnished by the City of Kenmore and may include but not be limited to plans in duplicate 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:

1. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
2. Elevation in relation to mean sea level to which any structure has been floodproofed;
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in KMC [16.90.160](#)(B); and
4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 11. Formerly 16.40.110.]

16.90.120 Designation of the local administrator.

The director is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 12. Formerly 16.40.120.]

16.90.130 Duties and responsibilities of the local administrator.

Duties of the director shall include, but not be limited to:

A. Permit Review.

1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;
2. Review all development permits to determine that all necessary permits have been obtained from those federal, State, or local governmental agencies from which prior approval is required; and
3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of KMC [16.90.170](#)(A) are met.

B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with KMC [16.90.060](#), the director 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 KMC [16.90.160](#) and [16.90.170](#).

C. Information to Be Obtained and Maintained.

1. Where base flood elevation data is provided through the flood insurance study or required as in subsection B of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
2. For all new or substantially improved floodproofed structures:
 - a. Verify and record the actual elevation (in relation to mean sea level); and
 - b. Maintain the floodproofing certifications required in KMC [16.90.110](#)(B)(3).
3. Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Alteration of Watercourses.

1. Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

E. Interpretation of FIRM Boundaries. Make interpretations, where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in KMC [16.90.140](#). [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 13. Formerly 16.40.130.]

16.90.140 Variance procedure.

A. Appeal to Hearing Examiner.

1. The hearing examiner shall hear and decide appeals and requests for variances from the requirements of this chapter.
2. The hearing examiner shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the director in the enforcement or administration of this chapter.

3. Those aggrieved by the decision of the hearing examiner may appeal such decision to the superior court, as provided in Chapter 36.70C RCW, the Land Use Petition Act.

4. In passing upon such applications, the hearing examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

- a. The danger that materials may be swept onto other lands to the injury of others;
- b. The danger to life and property due to flooding or erosion damage;
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity to the facility of a waterfront location, where applicable;
- f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- g. The compatibility of the proposed use with existing and anticipated development;
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- k. 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, and water systems, and streets and bridges.

5. Upon consideration of the factors of subsection (A)(4) of this section and the purposes of this chapter, the hearing examiner may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

6. The director shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

B. Conditions for Variances.

1. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half

acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections (A)(4)(a) through (A)(4)(k) of this section have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.

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

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

5. Variances shall only be issued upon:

- a. A showing of good and sufficient cause;
- b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
- c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

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

7. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (B)(1) of this section and otherwise complies with KMC [16.90.150](#)(A) and (B).

8. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 14. Formerly 16.40.140.]

16.90.150 General standards.

In all areas of special flood hazards, the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, 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 (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

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, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as 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 minimize or eliminate infiltration of floodwaters into the system.
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.
2. All subdivision 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 proposals shall have adequate drainage provided to reduce exposure to flood

damage.

4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

E. Review of Building Permits. Where elevation data is not available either through the flood insurance study or from another authoritative source (KMC [16.90.130\(B\)](#)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 15. Formerly 16.40.150.]

16.90.160 Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in KMC [16.90.060](#) or [16.90.130\(B\)](#), the following provisions are required:

A. Residential Construction.

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation.
2. 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:
 - a. A minimum of two openings having a total net area of not less than one 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 one foot above grade; and
 - c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

B. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below one foot 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 engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection 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 KMC [16.90.130\(C\)\(2\)](#);
4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (A)(2) of this section;
5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below).

C. Manufactured Homes.

1. All manufactured homes to be placed or substantially improved within Zones A1 through A30, AH, and AE on the community's FIRM on sites:
 - a. Outside of a manufactured home park or subdivision;
 - b. In a new manufactured home park or subdivision;
 - c. In an expansion to an existing manufactured home park or subdivision; or
 - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot above the base flood elevation and shall be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.
2. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1 through 30, AH, and AE on the community's FIRM that are not subject to the above manufactured home provisions shall be elevated so that either:
 - a. The lowest floor of the manufactured home is elevated one foot above the base flood elevation; or
 - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above

grade and is securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

D. Recreational Vehicles. Recreational vehicles placed on sites within Zones A1 through 30, AH, and AE on the community's FIRM shall either:

1. Be on the site for fewer than 180 consecutive days;
2. Be fully licensed and ready for highway use, on their wheels or jacking systems, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
3. Meet the requirements of subsection C of this section and the elevation and anchoring requirements for manufactured homes. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 16. Formerly 16.40.160.]

16.90.170 Floodways.

Located within areas of special flood hazard established in KMC [16.90.060](#) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating that encroachments shall 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, reconstruction, or improvements to a structure which do not increase the ground floor area; and
2. Repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either:
 - a. Before the repair or reconstruction is started; or
 - b. If the structure has been damaged, and is being restored, before the damage occurred.

Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historic places shall not be included in the 50 percent.

C. If subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of KMC [16.90.150](#) through

[16.90.200](#). [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 17. Formerly 16.40.170.]

16.90.180 Encroachments.

The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 18. Formerly 16.40.180.]

16.90.190 Standards for shallow flooding areas (AO Zones).

Shallow flooding areas appear on FIRMs as AO Zones with depth designations. The base flood depths in these zones range from one to three feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

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

B. New construction and substantial improvements of nonresidential structures within AO Zones shall either:

1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
2. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level 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 this method is used, compliance shall be certified by a registered professional engineer or architect as in KMC [16.90.160\(B\)\(3\)](#).

C. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

D. Recreational vehicles placed on sites within AO Zones on the community's FIRM shall either:

1. Be on the site for fewer than 180 consecutive days;
2. Be fully licensed and ready for highway use, on their wheels or jacking systems, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

3. Meet the other applicable requirements of this chapter, and the elevation and anchoring requirements for manufactured homes. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 19. Formerly 16.40.190.]

16.90.200 Critical facility.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year) at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 21. Formerly 16.40.210.]

Attachment 4.

Public Participation Plan

Draft June 11, 2018 | Critical Areas Regulations and Shoreline Master Program Update

Purpose

Kenmore is initiating a Critical Areas Regulations (CAR) and Shoreline Master Program (SMP) Update. This Public Participation Plan is required under the Growth Management Act and Shoreline Master Program Guidelines and describes guiding principles, stakeholders, strategies and activities, and schedule.

Outreach Process Requirements and Options

Under the Growth Management Act that applies to both the CAR and SMP Update, the City “shall establish and broadly disseminate to the public a public participation program identifying procedures providing for early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans.” (RCW 36.70A.140) The Public Participation Plan “shall provide for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, communication programs, information services, and consideration of and response to public comments.”

For cities and counties in central Puget Sound (King, Pierce, and Snohomish Counties), the SMP review must be completed by June 30, 2019. In conducting the periodic review according to State rules, both the City and Ecology “pursuant to RCW 90.58.130, shall make all reasonable efforts to inform, fully involve and encourage participation of all interested persons and private entities, tribes, and agencies of the federal, state or local government having interests and responsibilities relating to shorelines of the state and the local master program.” (WAC 173-26-090(3)(a)(i)) City review will be followed sequentially by State review (WAC 173-26-100).

Public Outreach & Engagement Guiding Principles

The CAR and SMP outreach and engagement efforts will be steered by guiding principles:

- Provide easy and convenient access to project information.
 - Maintain and update a project website and provide project outreach materials that explain the project and key stages of public input.

- Provide timely information.
- Provide multiple opportunities to review and comment on proposed amendments.
- Be Inclusive.
 - Create opportunities for inclusive engagement to reach a broad group of participants.
 - Create opportunities for engagement for hard-to-reach stakeholders.
 - Solicit information from stakeholders about their concerns, questions, and priorities for the update.
 - Encourage interested parties to informally review and comment on proposed changes.
 - Consult and consider recommendations from neighboring jurisdictions, federal and state agencies, and Native American tribes.
- Make public engagement accessible.
 - Choose meeting times and locations that are accessible to as many participants as possible.
 - Create multiple ways to engage.
 - Collaborate with other City or Ecology initiatives where possible.
- Document and Learn from Outreach Efforts.
 - Provide forums for formal public input at project milestones prior to decision-making by local officials.
 - Make time to reflect on the outcome of each activity – what went well, what could be improved, and what was learned.
 - Respect the feedback received and consider it in project outcomes.
- Gain support for the final ordinance.

Stakeholders & Audiences

The Public Participation Plan is designed to reach all audiences that may have an interest in the update, including but not limited to:

- General public
- Interested property owners and developers
- Community and nonprofit organizations
- Appointed and elected officials
- Federal and state agencies, tribes, and neighboring jurisdictions

Public Engagement Strategies & Activities

Public engagement strategies and activities are designed to contact interested persons and agencies, share information, and provide opportunities for input and comment as follows:

- Development of an initial interested agencies and parties list.
- Website content at project beginning, draft proposals, and ordinance development stages.
- Development of frequently asked questions (FAQ) sheets, postcards, and flyers.
- Focus group meetings to engage parties of similar geographic or topical interest.
- Study sessions and public hearings before the Kenmore Planning Commission and City Council.

ACTIVITIES AND ROLES

Community engagement and outreach is a joint effort between the consultant team and City staff. This section summarizes the key outreach strategy and activities and roles and responsibilities between City staff, the consultants, and others.

Exhibit 1. Outreach Strategies, Actions, Roles, and Responsibilities

Outreach Strategies Phases/Activity	Key Actions	Roles & Responsibilities
Advertising Events		
Interested Parties List	Develop list based on: ▪ City email lists for Community Development topics, ▪ Past CAR and SMP development activities, and ▪ Property owners along shorelines, streams, wetlands, and geologically hazardous areas.	▪ City provides lists. ▪ City and consultant team review and finalize initial lists.
Project Website	▪ Develop content. ▪ Post Materials.	▪ Content: Consultant team develops with City review. ▪ Post: City
Postcards, Fliers, FAQs	▪ Develop materials. ▪ Print & Distribute materials.	▪ Develop: Consultant team develops templates and draft materials for City review. ▪ Print and Distribute: City prints and distributes.

Outreach Strategies Phases/Activity	Key Actions	Roles & Responsibilities
Outreach and Engagement		
Focus Groups	■ Develop invitation and contact key stakeholders. ■ Develop discussion guide and key questions.	■ Consultant develops draft invitation, and City reviews and sends it. ■ Consultant contacts stakeholders ahead of meeting to identify key issues and develops discussion guide. ■ Consultant facilitates groups and summarizes results. ■ Present results to Planning Commission and City Council.
Legislative Meetings	■ Schedule ■ Presentations	■ Schedule & Notices: City develops meeting schedule and notices. ■ Presentations/Materials: Consultant prepares presentations and materials for meetings for City review.

Schedule

There are generally three stages in the proposed project schedule: 1) initial evaluation and outreach in Spring-Summer 2018; 2) preparation of amendments, focus groups, comment periods, and public meetings in Summer-Fall 2018; 3) and final legislative adoption in Winter 2019.

April-July 2018	August-December 2018	January-March 2019
• Technical Work • Gap Analysis & Recommendations • Mapping • Public Participation • Public Participation Plan • Project Website & Information • Planning Commission Introduction & Workshops	• Technical Work • Policy Amendments (if needed) • Code Amendments • State Environmental Policy Act Review • Public Participation • Focus Groups • Comment Periods with Legislative Process • Planning Commission Hearing and Recommendations on Policies (if needed) and Code Amendments • City Council Hearing and Deliberations on Policies (if needed)	• City Council Hearing and Deliberations on Code Amendments
Federal, State, Tribal, and Other Agency Communication		