

City of Kenmore



City of Kenmore - 18120 68th Avenue NE - Kenmore, WA 98028
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City of Kenmore Planning Commission Meeting Agenda

Tuesday, July 24, 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**

[July 17 Planning Commission Meeting Minutes](#)

- 4. PUBLIC HEARING**

Comprehensive Plan Capital Facilities Element Amendments

- 5. AGENDA ITEMS**

[A. Comprehensive Plan Capital Facilities Element Amendments Memo](#)
[Attachment 1 - Draft Amendments](#)
[Attachment 2 - Amendment Decision Criteria](#)
[B. Critical Areas and Shoreline Update Memo](#)
[Attachment 1 - Gap Analysis](#)
[Attachment 2 part 1 - Flood Hazard Analysis](#)
[Attachment 2 part 2 - Kenmore Critical Areas Checklist](#)
[Attachment 3 - July 17, 2018 CAR/SMP Presentation](#)

- 6. ADJOURNMENT**

7. **UPCOMING MEETINGS:**
August 7, 2018, 7:00 p.m.
August 21, 2018, 7:00 p.m. (tentative)

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

Planning Commission Members – In Attendance

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

Consultants & Staff

Debbie Bent, Community Development Director
Lauri Anderson, Senior Planner
Bridgit Baker, Admin Assistant
Lisa Grueter, Berk
Kerrie McArthur, Confluence
Amy Summe, Shannon & Wilson

1. CALL TO ORDER

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

2. CITIZEN COMMENTS

No citizens rendered comments.

3. APPROVAL OF MINUTES

Commissioner McDonald motioned to approve the June 19, 2018 minutes which was seconded by Commissioner Vanderlinde. The motion passed 5-0 with no abstentions. Commissioner Baker arrived after the minutes were approved.

4. AGENDA ITEMS:

The Planning Commission was introduced to the Comprehensive Plan Capital Facilities Element amendments relating to two projects. The first project is the addition of a Public Works Shop. The second project is extending the Juanita Drive project from NE 143rd St to NE 170th Street. The Planning Commission will hold a public hearing on July 24, 2018 to make a recommendation to the City Council on the amendments.

The Planning Commission was also introduced to the preliminary results of the Critical Areas Regulations and Shoreline Master Program Gap Analysis, excluding the flood hazard analysis. Amy Summe with Shannon & Wilson, Lisa Grueter with

Berk and Kerrie McArthur with Confluence presented the key and high points of the Gap Analysis. Some of the key points relating to critical areas include fencing, PAUE, wetlands, streams, and fish & wildlife habitats of importance. A significant change to the wetland regulations is converting the City of Kenmore's wetland scheme to the Department of Ecology classifications so they fall in line with each other. The Planning Commission agreed to table the presentation of the Shoreline Master Program until the following meeting.

Debbie Bent shared with the Planning Commission that the City of Kenmore received a \$20,000 grant from the Department of Ecology to assist with the updates. Maria Sandercock with Ecology was in the audience.

Lauri Anderson polled the Planning Commission and the majority of the Commissioners would be available on August 21st should an additional meeting in August be needed.

5. ADJOURNMENT

Vice Chair Ohrenschall adjourned the meeting at 8:52 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 *wk*

DATE: July 18, 2018

SUBJECT: Comprehensive Plan Capital Facilities Element Amendments

The public hearing for the Comprehensive Plan Capital Facilities amendments we reviewed at your last meeting is scheduled for July 24.

On July 24, after the public hearing, the Planning Commission should finalize recommendations. Typically, the Commission presents their recommendations at a joint meeting with Council. However, as the amendments are relatively minor and if the Commission agrees, staff proposes to present the Commission's recommendations to Council in conjunction with the Council's September public hearing on the Capital Improvement Program (CIP).

As you recall, proposed amendments to the Capital Facilities Element (see Attachment 1) are to add acquisition and development of land for a public works shop and to expand the Juanita Drive project from NE 155th Place to NE 170th St. as a result of the Walkways and Waterways bond measure.

At the suggestion of Commissioner Vanderlinde, we reviewed other elements of the Comprehensive Plan to assess the specificity of the background information. As we stated at the meeting, most background sections include a "snapshot" of existing conditions, along with forecasts of future conditions. This background information is not amended on a regular basis, but is updated at the time of our overall review of the Plan—next scheduled for 2022/2023. By adding the expected number of employees to the discussion of the Public Works shop, we are addressing proposed "level of service." If these numbers should change, a Comprehensive Plan amendment would not be necessary.

Criteria to be considered before recommending an amendment are included as Attachment 2.

Attachments

Attachment 1: Draft amendments to the Capital Facilities Element

Attachment 2: Amendment decision criteria

CAPITAL FACILITIES ELEMENT

INTRODUCTION

Purpose

The Capital Facilities Element is intended to assist the City of Kenmore and its officials make the financial decisions to ensure that the public facilities and services City residents rely on will continue to adequately support City residents today and into the future. The Capital Facilities Element places particular focus on those facilities that the City is responsible for funding. This Element contains a six-year plan for capital improvements that support the City of Kenmore's current and future population and economy. The six-year capital improvements described here must be fully funded.

Another purpose of the Capital Facilities Element is to respond to Growth Management Act requirements to provide a process to review the potential siting of uses typically difficult to locate in most communities due to environmental, economic, or social costs. This Element provides policies that would guide local permit and public review of essential public facilities.

Growth Management Act Requirements

The Growth Management Act (GMA) establishes many of the requirements of the capital facilities element. It establishes an overall goal to "ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards." The GMA requires that the capital facilities element include an inventory of existing publicly owned capital facilities, a forecast of the future needs for new or expanded facilities, and a six-year plan to indicate from what sources the identified future facilities will be financed. The GMA defines public facilities to include roadways, street lighting, traffic signals, sidewalks, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools. Public services are defined to include fire protection, law enforcement, public health, education, recreation, environmental protection, and other government services. The Capital Facilities Element is intended to provide a general assessment of major public services which impact land use issues, rather than a detailed analysis of every service provided by government.

Another key GMA requirement is to include a process for identifying and siting essential public facilities. Essential public facilities include "those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020." No local comprehensive plan or development regulation may preclude the siting of essential public facilities.

Countywide Planning Policies

The King County Countywide Planning Policies include general policies regarding adequate infrastructure for planned development for those areas within the Urban Growth Area. Growth is to be directed to centers and urbanized areas with existing infrastructure capacity. Policies also include several policy statements regarding water and wastewater. In summary, the policies address regional coordination of water supplies, water conservation, alternate sewer treatment technologies and systems, and preference for urban water and sewer systems to serve new construction in the areas identified for growth.

The King County Countywide Planning Policies indicate that public capital facilities of a regional or statewide nature should be sited in a way that equitably disperses impacts and benefits and supports the Countywide Planning Policies.

Concurrency, Level of Service and Impact Fees

Concurrency refers to the timely provision of public facilities and services relative to the need for them, especially for transportation improvements. WAC 365-196-210 states, “Concurrency means that adequate public facilities are available when the impacts of development occur, or within a specified time thereafter.” The City maintains a 6-year capital improvement program that identifies needed improvements and the funds to pay for them. Longer-term facilities plans are described in individual Comprehensive Plan elements and summarized in this element, along with estimates of future costs.

Level of service standards provide the baseline by which the impacts of new development are measured. WAC 365-196-210 states, “Level of service means an established minimum capacity of public facilities or services that must be provided per unit of demand or other appropriate measure of need. Level of service standards are synonymous with locally established minimum standards.” For transportation facilities, if growth will reduce the level of service below the City’s adopted standards, development permits cannot be issued until facilities are provided. The Transportation Element discusses level of service standards for multimodal transportation facilities.

The City’s impact fee requirements are in place to maintain desired levels of service by providing funding from new development for needed improvements. Impact fees are available as a funding mechanism for transportation facilities, parks, fire protection facilities, and schools. The City requires impact fees for transportation facilities and parks. If the Northshore School District determines that impact fees for schools are needed, they may request that the City collect school impact fees on their behalf. The need for additional fire protection facilities was not identified in the Public Services Element.

Sound Fiscal Management

Planning for major capital facilities and their costs enables the City of Kenmore to demonstrate the need for facilities and the need for revenues to pay for them. It also allows the City to estimate the future operation/maintenance costs of new facilities that will impact the annual budget. Additionally, it helps the City take advantage of sources of revenue (i.e., grants, fees, real estate excise taxes) that require a Capital Facilities Plan to qualify for the revenue. Lastly, it may help the City get better ratings on bond issues when the City borrows money for capital facilities.

Eligibility for Grants and Loans

The State Department of Community Development’s Public Works Trust Fund requires that local governments have a Capital Facilities Plan in order to be eligible for grants and loans. Some other grants and loans have similar requirements (i.e., Washington State Recreation and Conservation Office grants, or the Department of Ecology’s Centennial Clean Water Fund), or give preference to jurisdictions that have a Plan.

INVENTORY/FORECAST OF FUTURE NEEDS

General

The inventory and forecast of needs required in the Capital Facility Element have been met in other Elements as follows:

- Existing and future needs for transportation facilities, **Chapter 6, Transportation Element**
- Domestic water systems, storm and sanitary sewer systems, **Chapter 10, Utilities Element**
- Parks and recreational facilities, **Chapter 7, Parks, Recreation and Open Space Element**
- Government services including City, fire, police, human, library, and school services, **Chapter 9, Public Services Element**

Levels of service analyses, where appropriate, also are discussed in these other Elements.

In 2018, the City of Lake Forest ended their contract with the City of Kenmore to provide public works services. The existing public works shop in Lake Forest Park will no longer be used by the City of Kenmore. This shop provides services needed to support the Transportation, Parks, Recreation and Open Space, Surface Water, and Public Services Elements of this Plan. Based on a level-of-service analysis of Kenmore's participation in the Lake Forest Park shop, the City estimates that a shop capable of housing twelve employees (five maintenance workers, an Administrative Assistant and six seasonal employees) will be required. This shop would maintain existing shop capacity and would continue to serve the City for the foreseeable future.

The focus of the Capital Facilities Element is to identify the capital facility costs and timeframes for at least 6 years to support the Comprehensive Plan.

Essential Public Facilities

Existing Essential Public Facilities

Within Kenmore today, there are several existing facilities that would qualify as “essential public facilities” including, but not limited to:

- SR-522 – Bothell Way, a state transportation facility (classified as a Highway of Statewide Significance)
- Kenmore Air Harbor, a private seaplane base, which is considered a “public use airport” by the Washington State Aviation System Plan
- Several adult family homes and group homes as described in **Chapter 5, Housing Element**.

Although not specifically listed in the definition of essential public facilities, regional wastewater facilities could be considered essential public facilities, since the definition lists examples and is not a definitive list. Examples of regional wastewater facilities include:

- King County Department of Natural Resources, Wastewater Treatment Division, regional facilities within Kenmore. These include the Kenmore Pump Station/Logboom Regulator System, Swamp Creek Trunk, and Kenmore Interceptor. The Kenmore Pump Station/Logboom Regulator System controls flows in the Kenmore Lakeline, a 48-inch diameter, five-mile long pipeline constructed in Lake Washington between Kenmore and Matthew's Beach. This system conveys sewage from King County's North Service Area to Matthews Beach Pump Station and from there to the West Point Treatment Plant. The Kenmore Interceptor is a 72-inch diameter sewer within Kenmore that enters the City from the east.

Planned Essential Public Facilities

The State of Washington Office of Financial Management (OFM) is required to maintain a list of those essential state public facilities that are required or likely to be built within the next six years. The OFM 2015-2021 Six-Year Facilities Plan includes no planned facilities in Kenmore.

CAPITAL FACILITIES PLANNING

This section addresses short and long-term improvement plans for City facilities including parks and recreation, surface water and transportation. **Tables CF-A through CF-CD** are the Capital Facilities Plans through 2035 from the Parks, Recreation and Open Space Element, the Surface Water Element and the Transportation Element. **Table CF-DE** is the City's current Capital Improvement Program, showing the 6-year plans for capital facilities with forecasts of expenditures and revenues. Cost estimates and revenue projections are most accurate for the current biennium and least accurate for the long-term assessments. Projects and schedules in the Capital Facilities Element of the Comprehensive Plan will be updated annually as part of the City's budget process.

The Element also incorporates by reference the 6-year capital facility plans for the special districts that provide water, wastewater services, fire protection and school services: the Northshore Utility District, the Northshore Fire Department and the Northshore School District. Agencies or special districts, in accordance with the provisions of the Growth Management Act, may need to update their Comprehensive Plans and/or 6-year capital improvement plans in order to be consistent with the City's Comprehensive Plan.

TABLE CF-A
PARKS CAPITAL IMPROVEMENTS
CITY OF KENMORE
2015-2035 FISCALLY UNCONSTRAINED LIST

PROJECT DETAIL	TOTAL DOLLAR AMOUNT
ACQUISITION	
Kenmore Water Walk and Waterfront Master Plan (Acquisition & Development)	Planning 200,000 (Acquisition and Development Unknown)
Waterfront at Lake Washington	Unknown
Natural Areas/Open Space and Waterfront at Sammamish River	3,300,000
Swamp Creek Natural Areas/Open Space	1,060,000
Sheriff Precinct Property (heron rookery)	0
Community Park Land	10,000,000-15,000,000
Moorlands Park Expansion	624,000-1,000,000
Indoor Recreation Space--Partnership Community Center (Acquisition & Development)	2,799,000
DEVELOPMENT	
Log Boom Park	2,640,000
Rhododendron Park	385,000
Wallace Swamp Creek Park	721,000
Kenmore Village Public Square/"Town Green"	1,092,000
Entry Gateways	287,500
City Hall Park	476,400
Twin Springs Park	1,265,000-2,430,000
Athletic Fields	2,700,000
Picnic Facilities	Unknown
Swamp Creek Nature Trail	1,150,000
Sport Courts	Unknown
Off-Leash Area	739,000
Skate Park	287,500
Tolt Pipeline Trail Phase 1	36,200-136,700
Tolt Pipeline Trail Phase 2	399,000
Natural Areas and Waterfront at Squire's Landing Park	15,305,000
RENOVATION	
Moorlands Park	929,000
Linwood Park	587,000
TOTAL	\$46,982,600-\$53,624,100

TABLE CF-B
SURFACE WATER FACILITIES CAPITAL IMPROVEMENTS
CITY OF KENMORE
2015-2035 FISCALLY UNCONSTRAINED LIST

PROJECT DETAIL	TOTAL DOLLAR AMOUNT
Little Swamp Creek Culvert Replacement at 192 ND Street	395,000
0056 Culvert Replacement and Repairs at 190 TH Street	1,111,000
Surface Water Component of SR 522 Corridor Improvement Project – West A	634,000
Tributary 0056 Evaluation	100,000
Ditch Rehabilitation	68,000
Tributary 0057 Evaluation	25,000
Sammamish Tributary 02 Evaluation	25,000
Small Works Projects	1,000,000
Strawberry Hills Surface Water Facility Retrofit	460,000
Wallace Swamp Creek Park Pond Beaver Management	96,000
Little Swamp Creek Relocation	1,274,000
Northlake Heights LID Retrofit	1,588,000
Juanita Drive Surface Water Facility Retrofit	698,000
TOTAL	\$7,474,000

TABLE CF-C
TRANSPORTATION CAPITAL IMPROVEMENTS
CITY OF KENMORE
2015-2035 AND BEYOND FISCALLY UNCONSTRAINED LIST

PROJECT DETAIL	TOTAL DOLLAR AMOUNT
West Sammamish River Bridge	20,000,000
SR-522 Improvements (61st-65 th)	9,800,000
SR-522 Improvements (Lake Forest Park-61 st)	9,000,000
Sidewalk and Crossing Program	900,000
Downtown Parking Feasibility Study	75,000
61 st Ave. Sidewalk Replacement (East Side)	2,100,000
Neighborhood Transportation Plans	1,500,000
Arterial Restriping to add Bike Lanes on 73 rd Ave. (south of 192 nd), 80 th Ave. and Simonds Road	360,000
Juanita Drive (NE 143 rd St. to NE 155 170 th Place St.)	6,500,000 13,000,000
Feasibility Study for Grade-Separated Crossing of SR 522	250,000
68 th Ave. Northbound Right Turn Pocket Extension	2,600,000
175 th Swamp Creek Bridge	810,000
Yellow Standard Pedestrian Facilities	18,900,000
Yellow Standard Bicycle Facilities	18,800,000
Improved Pedestrian Crossings	650,000
Grade Separated SR522 Crossing	17,100,000
Intersection Treatments at 67 th Ave./181 st St. and 67 th Ave./175 th St.	6,000,000
Intersection Treatments at 73 rd Ave./192 nd St., 80 th Ave./192 nd St., and 84 th Ave./Simonds Rd.	3,800,000
Lakepointe Drive West (SR522 to 68 th Ave.), including new intersection at 68 th Ave.	7,500,000
175 th Signal Removal	20,000
Lake Pointe Dr. East (68 th Ave. to SR 522)	7,500,000
TOTAL	\$134,165,000140,665,000

TABLE CF-D
OTHER CAPITAL IMPROVEMENTS
CITY OF KENMORE

2015-2035 AND BEYOND FISCALLY UNCONSTRAINED LIST

PROJECT DETAIL	TOTAL DOLLAR AMOUNT
Public Works Shop Land Acquisition and Development	\$6,500,000
TOTAL	\$6,500,000

TABLE CF-DE

Replace existing table with information on the following pages

**CITY OF KENMORE, WASHINGTON
PROPOSED CAPITAL IMPROVEMENT PROGRAM
FOR THE YEARS 2019-2024**

EXPENDITURES	2019 Proposed	2020 Proposed	2021 Proposed	2022 Proposed	2023 Proposed	2024 Proposed	2019-2024 Totals
<u>PARKS</u>							
P 1 Twin Springs Interim Use Plan	\$100,000	\$0	\$0	\$0	\$0	\$0	\$100,000
P 18 Rhododendron Park Waterfront Mitigation	5,000	5,000	5,000	5,000	5,000	0	25,000
P18a Rhododendron Park Float & Mitigation	5,000	5,000	5,000	5,000	5,000	0	25,000
P 26 Squire Landing Float Mitigation	5,000	5,000	5,000	5,000	5,000	0	25,000
P 27 Squires Landing Park Waterfront & Open Space	500,000	220,000	690,000	3,940,000	40,000	360,000	5,750,000
P 28 Log Boom Park Waterfront Access and Viewing	300,000	120,000	590,000	1,330,000	40,000	360,000	2,740,000
P 29 St Edward Ballfield Improvements	300,000	0	0	0	0	500,000	800,000
P 30 Rhododendron Park Boathouse Pavilion	455,000	0	0	0	0	0	455,000
P 31 Squires Landing Park Land Acquisition	1,000,000	0	0	0	0	0	1,000,000
Total Parks	\$2,670,000	\$355,000	\$1,295,000	\$5,285,000	\$95,000	\$1,220,000	\$10,920,000
<u>TRANSPORTATION</u>							
T 8 SR 522 West B 57th to 61st	\$0	\$0	\$600,000	\$7,400,000	\$4,000,000	\$0	\$12,000,000
T 27 Sidewalk Program:							
Sidewalk Gaps	100,000	100,000	100,000	100,000	100,000	100,000	600,000
T 47 Arrowhead Dr	11,100	132,800	726,133	0	0	0	870,033
T 45 NE 153rd Pl	612,500	0	0	0	0	0	612,500
T 46 NE 181st (65th -67th)	681,413	0	0	0	0	0	681,413
T 35 Pavement Preservation	805,351	450,000	450,000	450,000	450,000	450,000	3,055,351
T 37 West Samm Bridge	10,288,614	10,292,286	7,164,859	249,951	20,923	20,923	28,037,556
T 41 Juanita Dr Pedestrian & Bicycle Safety All Segments	8,896,910	2,267,090	0	0	0	0	11,164,000
T 42 68th Ave Pedestrian & Bicycle Safety All Segments	5,453,300	1,807,080	0	0	0	0	7,260,380
T 43 SR 522 Pedestrian Crossing Study	500,000	0	0	0	0	0	500,000
Total Transportation	\$27,349,188	\$15,049,256	\$9,040,992	\$8,199,951	\$4,570,923	\$570,923	\$64,781,233
<u>SURFACE WATER</u>							
SW 8 190th Culvert at 61st	\$1,500,000	\$0	\$0	\$0	\$0	\$0	\$1,500,000
SW 8 Trust Fund Loan Repayment	0	81,650	81,650	81,650	81,650	81,650	408,250
SW 20 Small Works Projects	50,000	50,000	50,000	50,000	50,000	50,000	300,000
SW 25 Strawberry Hills SW Tank Retrofit	360,000	0	0	0	0	0	360,000
SW 29 Infiltration Tank Retrofit at 61st Ave NE/NE 190th St	500,000	0	0	0	0	0	500,000
SW 30 Drainage Improvements at 153rd/NE Arrowhead Dr	100,000	0	0	0	0	0	100,000
SW 31 Drainage Impr & Street Repair at 66th Ave NE /196th	115,000	0	0	0	0	0	115,000
SW 32 61st Ave Stabilization	150,000	0	0	0	0	0	150,000
Total Surface Water	\$2,775,000	\$131,650	\$131,650	\$131,650	\$131,650	\$131,650	\$3,433,250
<u>CITY FACILITIES</u>							
F 1 Public Works Shop Land Acquisition & Development	\$0	\$2,000,000	\$4,500,000	\$0	\$0	\$0	\$6,500,000
F 2 Debt Repayment	0	0	500,000	500,000	500,000	500,000	2,000,000
Total City Facilities	\$0	\$2,000,000	\$5,000,000	\$500,000	\$500,000	\$500,000	\$8,500,000
TOTAL EXPENDITURES	\$32,794,188	\$17,535,906	\$15,467,642	\$14,116,601	\$5,297,573	\$2,422,573	\$87,634,483
<u>REVENUES</u>							
Real Estate Excise Tax (Transportation)	\$1,640,300	\$2,357,080	\$2,550,000	\$550,000	\$550,000	\$550,000	\$8,197,380
Real Estate Excise Tax (Parks)	500,000	0	0	0	0	500,000	1,000,000
Transportation Impact Fee Revenue	811,547	63,750	1,560,309	249,951	20,923	20,923	2,727,403
Park Impact Fee Revenue	260,000	10,000	10,000	250,000	50,000	360,000	940,000
General Fund	10,000	0	125,000	125,000	125,000	125,000	510,000
Federal Preservation Grants	355,351	0	0	0	0	0	355,351
TIB Grant - Sidewalks	435,410	0	0	0	0	0	435,410
WSDOT Safe Routes to School - Sidewalks	581,846	99,670	678,360	0	0	0	1,359,876
BRAC Grant West Samm Bridge Replacement	6,413,800	2,122,336	1,167,042	0	0	0	9,703,178
TIB Grant: West Samm Bridge Replacement	2,862,726	4,037,274	0	0	0	0	6,900,000
Connecting WA Funds West Samm Bridge Replacement	988,298	4,102,056	2,485,281	0	0	0	7,575,635
Walkways & Waterways Bonds: Juanita and 68th Ave	6,763,000	0	0	0	0	0	6,763,000
WSDOT Grant: Juanita Drive	225,000	0	0	0	0	0	225,000
TIB Grant: Juanita Drive	3,771,910	2,267,090	0	0	0	0	6,039,000
Interfund Loan: Juanita Drive	2,000,000	0	0	0	0	0	2,000,000
Washington State Ped & Bicycle Safety Grant: Ped Crossing	500,000	0	0	0	0	0	500,000
Washington State LEAP Transportation Bill	0	0	600,000	7,400,000	4,000,000	0	12,000,000
Surface Water Utility Funds	1,275,000	131,650	376,650	376,650	376,650	376,650	2,913,250
RCO Park Grants	402,500	0	0	1,000,000	0	0	1,402,500
State Capital Budget	192,500	0	0	0	0	0	192,500
King County Conservation Futures Trust Grant	500,000	0	0	0	0	0	500,000

**CITY OF KENMORE, WASHINGTON
PROPOSED CAPITAL IMPROVEMENT PROGRAM
FOR THE YEARS 2019-2024**

Public Works Trust Fund Loan	1,500,000	0	0	0	0	0	1,500,000
Walkways & Waterways Bonds: Log Boom, Squires	805,000	345,000	1,285,000	4,035,000	45,000	360,000	6,875,000
Street Fund	0	0	130,000	130,000	130,000	130,000	520,000
10 year Note Public Works Shop	0	6,500,000	0	0	0	0	6,500,000
TOTAL REVENUES	\$32,794,188	\$22,035,906	\$10,967,642	\$14,116,601	\$5,297,573	\$2,422,573	\$87,634,483

GOALS, OBJECTIVES, AND POLICIES

Following are the goals, objectives and policies addressing capital facility planning and financing. These are applicable to Kenmore as well as to other agencies planning public capital facilities and services in Kenmore.

GOAL CF-1. ESTABLISH APPROPRIATE LEVELS OF SERVICE FOR PUBLIC FACILITIES TO ADEQUATELY SERVE EXISTING AND FUTURE DEVELOPMENT.

Objective CF-1.1 Identify and define types of public facilities.

- Policy CF-1.1.1 Maintain an inventory of existing public facilities owned or operated by the City, and reference those of the County, State, special districts, or other public entities within Kenmore. Include in the inventory the locations and capacities of such facilities and systems.

Objective CF-1.2 Review standards for levels of service, where appropriate, for each public facility, and determine what additional public facilities are needed in order to achieve and maintain the desired quality of life and vision for the City of Kenmore.

- Policy CF-1.2.1 Level of service standards should 1) measure the quality of life based on the City's vision of its future and values, 2) be achievable for existing development and growth anticipated in the land use plan, and 3) be achievable with existing and proposed financing plans.
- Policy CF-1.2.2 If appropriate, use the level of service standards to 1) determine the need for public facilities and 2) test the adequacy of such facilities to serve proposed development. In addition, use the level of service standards for city-owned public facilities to develop the City's annual budget and 6-year Capital Improvement Program.
- Policy CF-1.2.3 Reassess the Capital Facility Element annually to ensure that public facilities needs, financing, and level of service are consistent with the land use plan. The annual update should be coordinated with the annual budget process, and the annual amendment of the Comprehensive Plan.

GOAL CF-2. PROVIDE ADEQUATE PUBLIC FACILITIES CONCURRENT WITH THE IMPACT OF NEW DEVELOPMENT.

Objective CF-2.1 Provide a variety of responses to the demands of growth on capital facilities.

- Policy CF-2.1.1 Ensure City public facilities and services are provided concurrent with the impact of new development or redevelopment, including stormwater, roads, and local parks. Require that non-City public facilities are provided concurrent with the impact of new development or redevelopment including, water and sewer. Consistent with the Growth Management Act, road improvements may be provided at the time of, or within 6-years of, development. Local parkland to serve new development may be in place at the time of, or within 6-years of, development.

- Policy CF-2.1.2 Make the most efficient use of existing public facilities, including techniques such as:
- Conservation
 - Demand management
 - Improved scheduling
 - Encourage development that uses existing facilities
 - Contracting for services
 - Other methods of improved efficiency.
- Policy CF-2.1.3 Provide additional public facility capacity when existing facilities are used to their maximum level of efficiency consistent with adopted standards for levels of service.
- Policy CF-2.1.4 Encourage development where adequate public facilities and services exist or can be provided in an efficient manner.

GOAL CF-3. COORDINATE CAPITAL FACILITY PLANS WITH STATE, COUNTY, AND LOCAL AGENCIES AND DISTRICTS.

Objective CF-3.1 Coordinate the land use planning and decisions with plans for public facility capital improvements.

- Policy CF-3.1.1 Coordinate with non-City providers of public facilities about maintaining adopted levels of service standards, funding, and construction of capital improvements. Work in partnership with non-City public facility providers to prepare functional plans consistent with the City of Kenmore Comprehensive Plan as provided in Objective 2.7 and associated policies in the Land Use Element.
- Policy CF-3.1.2 Establish interagency planning mechanisms to assure coordinated and mutually supportive capital facility plans from non-City providers of public facilities.
- a. Establish priority areas for infrastructure improvements consistent with the City's vision as provided in Policy LU-2.4.1.
 - b. Annually assess development trends and infrastructure provision to identify and remedy deficiencies or need to reassess the land use plan as provided in Policy LU-2.4.2.

GOAL CF-4. MAINTAIN A SIX-YEAR CAPITAL IMPROVEMENT PROGRAM TO IMPLEMENT THE COMPREHENSIVE PLAN.

Objective CF-4.1 Annually develop a six-year Capital Improvement Program to implement the Comprehensive Plan.

Policy CF-4.1.1 Prepare and utilize the six-year Capital Improvement Program to identify City capital projects necessary to respond to the planned growth of the community and maintain desired levels of service.

Policy CF-4.1.2 Prepare and utilize the six-year Capital Improvement Program to integrate all of the community's capital project resources such as grants, bonds, city funds, donations, impact fees and other available funding.

Policy CF-4.1.3 Maintain the Capital Improvement Program as follows:

- a. Provide for annual review of the Capital Improvement Program contained in this Capital Facilities Element by the City Council and incorporate a citizen participation process.
- b. Ensure that the Capital Improvement Program:
 - Is consistent with the overall Comprehensive Plan
 - Defines the projects' need and links to levels of service and facility plans
 - Includes construction costs, timing, and funding sources, and considers operations and maintenance impacts where appropriate
 - Establishes priorities for capital project development
 - Adopts by reference annual updates of the Northshore School District Capital Facilities Plan, Lake Washington School District Capital Facilities Plan if appropriate, Northshore Utility District water and sewer plans, and Northshore Fire District 16 (Northshore Fire Department) facility plans if any.

GOAL CF-5. PREPARE AND MAINTAIN A CAPITAL IMPROVEMENT PROGRAM THAT IS FULLY FUNDED AND FINANCIALLY FEASIBLE.

Objective CF-5.1 Establish mechanisms to ensure that the required public facilities are financially feasible.

Policy CF-5.1.1 Base the financing plan for public facilities on realistic estimates of current local revenues and external revenues that are reasonably anticipated to be received by the City.

Policy CF-5.1.2 Finance the six-year Capital Improvement Program within the City's financial capacity to achieve a balance between available revenue and needed public facilities. If the projected funding is inadequate to finance needed public facilities based on adopted level of service standards and forecasted growth, the City could do one or more of the following:

- Lower the level of service standard
- Change the Land Use Plan
- Increase the amount of revenue from existing sources
- Adopt new sources of revenue

Objective CF-5.2 Establish mechanisms to ensure that the required public facilities are fully funded.

Policy CF-5.2.1 Match revenue sources to capital improvements on the basis of sound fiscal policies.

Policy CF-5.2.2 Revise the financing plan in the event that revenue sources for capital improvements, which require voter approval in a local referendum, are not approved.

Policy CF-5.2.3 Ensure that the ongoing operating and maintenance costs of a public facility are financially feasible prior to constructing the facility.

GOAL CF-6. ENSURE GROWTH PAYS PROPORTIONATE COSTS OF CAPITAL FACILITIES REQUIRED TO SERVE THE GROWTH

Objective CF-6.1 Ensure existing and future development pay for the costs of needed capital improvements.

Policy CF-6.1.1 Ensure that existing development pays for capital improvements that reduce or eliminate existing deficiencies, and pays for some or all of the cost to replace obsolete or worn out facilities. Existing development may also pay a portion of the cost of capital improvements needed by future development. Existing development's payments may take the form of user fees, charges for services, special assessments, and taxes.

Policy CF-6.1.2 Ensure that future development pays a proportionate share of the cost of new facilities that it requires. Future development may also pay a portion of the cost to replace obsolete or worn-out facilities. Future development's payments may take the form of voluntary contributions for the benefit of any public facility, impact fees, mitigation payments, capacity fees, dedications of land, provision of public facilities, and future payments of users' fees, charges for services, special assessments, and taxes.

GOAL CF-7. LOCATE AND DESIGN CAPITAL FACILITIES TO REALIZE THE VISION STATEMENT, AND TO BE COMPATIBLE WITH SURROUNDING LAND USES AND THE ENVIRONMENT.

Objective CF-7.1 Promote capital facilities that protect the public health, safety and welfare, and that serve as models for function, design, and environmental protection.

- Policy CF-7.1.1 Consider the quality of public facilities in planning for capital improvements.
- Ensure that public facilities' design meets appropriate policies in the Community Design Sub-Element, complies with City design standards, and is compatible with the surrounding areas.
 - Maintain public spaces and enhance their appearance.
- Policy CF-7.1.2 Encourage public amenities and facilities which serve as catalysts for beneficial development.
- Policy CF-7.1.3 Protect public health and environmental quality through the appropriate design and installation of public facilities.
- Promote conservation of energy, water, and other natural resources in the location and design of public facilities.
 - Practice efficient and environmentally responsible maintenance and operating procedures for public facilities.
 - Preserve existing significant natural vegetation and features in the development of public facilities.

GOAL CF-8. ALLOW FOR THE APPROPRIATE SITING OF ESSENTIAL PUBLIC CAPITAL FACILITIES OF A STATE-WIDE OR COUNTY-WIDE NATURE.

OBJECTIVE CF-8.1 Participate in a cooperative inter-jurisdictional approach to the siting of essential public facilities in accordance with the King County Countywide Planning Policies. The approach should address definitions, inventories, incentives, compensation, public involvement, environmental protection, and alternative sites analysis.

- Policy CF-8.1.1 Identify essential public facilities based upon the Growth Management Act, State Office of Financial Management list of essential public facilities required or likely to be built, King County Countywide Planning Policies, and any City lists which may be developed.
- Policy CF-8.1.2 Classify a facility as an essential public facility if it has one or more of the following characteristics:
- a. The facility meets the Growth Management Act definition of an essential public facility;
 - b. The facility is on a State, County or City list of essential public facilities;

- c. The facility serves a significant portion of the County or metropolitan region or is part of a Countywide service system; or
- d. The facility is the sole existing facility in the County for providing that essential public service.

OBJECTIVE CF-8.2 Establish a local public review and permit process for essential public facilities.

- Policy CF-8.2.1 Require a siting analysis for proposed new or expansions to existing essential public facilities consisting of the following:
- a. An inventory of similar existing essential public facilities in King County and neighboring counties, including their locations and capacities;
 - b. A forecast of the future needs for the essential public facility, and definition of a logical service area;
 - c. An analysis of the potential social and economic benefits to jurisdictions receiving or surrounding the facilities;
 - d. An analysis of environmental, social, and economic impacts, including mitigation, of any existing essential public facility, as well as of any new site(s) under consideration as an alternative to expansion of an existing facility;
 - e. An analysis of alternatives to the facility, including decentralization, conservation, demand management and other strategies;
 - f. Consideration of any applicable prior review conducted by a public agency, local government, or citizen's group;
 - g. An analysis of the consistency with Comprehensive Plan policies and designations; and,
 - h. Consideration of other standards and criteria as outlined in the King County Countywide Planning Policies and other locally defined plans and ordinances.
- Policy CF-8.2.2 Require a public process by which citizens have a reasonable opportunity to participate in the site selection process.
- Policy CF-8.2.3 Siting criteria for essential public facilities which are not difficult to site should provide for site design and buffering techniques to ensure compatibility with surrounding uses, and enable the facility to be permitted outright in appropriate zoning classifications whenever feasible.
- Policy CF-8.2.4 Work with King County and other municipalities to standardize review procedures and criteria for the siting of Statewide and Countywide essential public facilities and incorporate these procedures within interlocal agreements.

OBJECTIVE CF-8.3 Cooperate regionally to ensure appropriate and equitable siting of essential public facilities.

- Policy CF-8.3.1 Encourage the State and County to site essential public facilities equitably among communities. No single community should absorb an inequitable share of these facilities and their impacts. Siting should consider environmental equity and environmental, economic, technical, and service area factors. The net impact of siting new essential public facilities should be weighted against the net impact of expansion of existing essential public facilities, with appropriate buffering and mitigation.
- Policy CF-8.3.2 Participate in a cooperative interjurisdictional approach to the siting of essential public facilities in accordance with the King County Countywide Planning Policies. Joint planning agreements should be sought where appropriate.
- OBJECTIVE CF-8.4 Seek to mitigate disproportionate financial burdens to the City due to the siting of essential public facilities.**
- Policy CF-8.4.1 Through joint planning or interlocal agreements, the City should seek to mitigate disproportionate financial burdens due to the siting of essential public facilities
- Policy CF-8.4.2 Seek amenities or incentives for neighborhoods in which the facilities are located, and require compensation for adverse impacts.

IMPLEMENTATION STRATEGIES

The Capital Facilities Element policies would require new or increased commitments of City resources to prepare new regulations, review/amend existing regulations, or coordinate with agencies and other service providers.

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

- A concurrency review and implementation system addressing multimodal transportation facilities
- Evaluation reports monitoring implementation of the goals and policies of the Capital Facilities Element.

A review of existing programs, rules and regulations would be needed to ensure they meet the policies. Rules, regulations and programs that should be reviewed include:

- Impact fee approaches, given revised facilities lists
- Levels of service for non-City-owned facilities.

REFERENCES

- King County Growth Management Planning Council (December 2012). Countywide Planning Policies. Seattle, WA.
- State of Washington Office of Financial Management (January 2015). 2015-21 Six-Year Facilities Plan. Olympia, WA.

1. One fee waiver is allowed per *applicant* per year.

2. The fee waiver request shall only be granted in the following cases: requests involving a topic of a *city-wide* nature; or a neighborhood-wide request; or a request made by a nonprofit organization when involving more than one property. Fee waivers are not allowed for *site-specific comprehensive plan land use map amendments*.

3. *City-Sponsored Proposals Exempt*. *City-sponsored proposals* are exempt from application fees.

G. Unless one or more of the submittal requirements outlined in this section is waived by the *city manager*, then an application that does not contain all of the submittal requirements so enumerated by the deadline set forth in KMC 19.20.060(B) shall be considered incomplete and ineligible for consideration in the annual amendment cycle. [Ord. 11-0329 § 3 (Exh. 1).]

19.20.080 Threshold review criteria.

The *city* shall use the following criteria in selecting proposals for further consideration in the annual *docketing* process. Proposals shall meet subsections A and B of this section, and either subsection C or D of this section:

A. The *city* has the resources, including staff and budget, necessary to review the proposal; and

B. It has been more than two years since the proposed amendment has been considered unless a compelling reason for changed circumstances can be made; and

C. The proposal would correct an inconsistency within or make a clarification to a provision of the *comprehensive plan*; or

D. All of the following:

1. The proposal demonstrates a strong potential to serve the public interest by implementing specifically identified goals and policies of the *comprehensive plan*; and

2. The public interest would best be served by considering the proposal in the current year, rather than delaying consideration to a later *sub-area plan* review or plan amendment process. [Ord. 11-0329 § 3 (Exh. 1).]

19.20.090 Amendment decision criteria.

All proposed amendments, whether or not considered through the annual amendment process, must meet the decision criteria in subsection A of this section. If the proposal is a *site-specific comprehensive plan land use map amendment*, then it

must meet the decision criteria of subsections A and B of this section. If the proposal is an amendment to *development regulations*, then it must meet the decision criteria of subsections A and C of this section.

A. Review Criteria Applicable to All Proposed Amendments. All proposed amendments must meet the following criteria:

1. The proposed amendment is consistent with the Growth Management Act and the county-wide planning policies; and

2. The proposed amendment eliminates an inconsistency or does not create an inconsistency within the *comprehensive plan*; and

3. The proposed amendment meets at least one of the following criteria:

a. The proposed amendment is beneficial to the *city* as a whole and will not adversely affect public health, safety, and welfare; or

b. The proposed amendment addresses changed circumstances within the *city* as a whole; or

c. The proposed amendment accommodates new policy direction from the city council.

B. Additional Review Criteria Applicable to Site-Specific Amendments. All *site-specific comprehensive plan land use map amendments* must meet the following additional decision criteria:

1. The proposed amendment is consistent with the policies, objectives and goals of the *comprehensive plan* (including any applicable *subarea plans*), the countywide planning policies and the State Growth Management Act; and

2. The subject property is suitable for development in conformance with the standards under the classification being proposed; and

3. The proposed amendment is compatible with adjacent and nearby existing and permitted land uses; and

4. The proposed amendment is compatible with the surrounding development pattern; and

5. The proposed amendment meets the zoning map decision criteria of KMC 19.30.210 and 19.30.220.

C. Additional Review Criteria for *Development Regulations*.

1. The proposed amendment is consistent with the policies, objectives, and goals of the *comprehensive plan*; and

2. The proposed amendment does not duplicate or conflict with other portions of the Kenmore Municipal Code. [Ord. 11-0329 § 3 (Exh. 1).]



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KENMORE, WASHINGTON 98028

MEMO

TO: Planning Commission

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

DATE: July 18, 2018

SUBJECT: Critical Areas/Shoreline Update

At your meeting on July 24, the City's consultant team will continue to present preliminary results of the "gap analysis." Topics to be covered on the 24th include shoreline management, geologically hazardous areas, flood hazard areas and critical aquifer recharge areas.

Another copy of the gap analysis you received for the July 17 meeting is included as Attachment 1. We also have attached the flood hazard area discussion (see Attachment 2).

As you recall, the consultant has highlighted in yellow areas of the gap analysis that involve significant policy discussions. Most other changes support clarity, usability, and flexibility.

Attachments

Attachment 1: Gap Analysis

Attachment 2: Flood hazard area analysis

**City of Kenmore
Critical Areas Regulations and Shoreline Master Program
Gap Analysis and Recommendations**



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21-1-30128-003

July 11, 2018

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C	Suggested KMC 18.55 Title XIX – Flood Hazard Areas and KMC 16.90 – Flood Damage Prevention [pending]	
D	Kenmore Density Transfer Code – Kenmore, Woodinville, Chelan, and Marin County	
E	Example Recreation Management Plan Standards – City of Chelan	
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1.0 INTRODUCTION

The City of Kenmore (City) completed a major update of its Shoreline Master Program (SMP) in 2012, which included a review of critical areas regulations in shoreline jurisdiction, and a comprehensive update of its critical areas regulations in 2006. The City is now preparing to conduct what is anticipated to be a minor, “periodic” update of its SMP as required by the Washington State Department of Ecology (Ecology). As noted in Ecology materials:

“Local governments must review amendments to the SMA [Shoreline Management Act] and Ecology rules that have occurred since the master program was last amended, and determine if local amendments are needed to maintain compliance. Local governments must also review changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them.”

The City’s SMP goals and policies are a sub-element of the City’s Comprehensive Plan, and the regulations are found in Kenmore Municipal Code (KMC) Title 16, Division I (Shoreline Management).

In tandem with the SMP update, the City desires to update its critical area (Chapter 18.55 KMC) and flood damage prevention (Title 16, Division II) rules. Because the SMP adopts many of the City’s critical areas regulations by reference, any changes to those regulations must also be approved as part of the periodic SMP update.

The following tables provide recommendations for revisions to the critical areas regulations and SMP based on recent court cases and advances in best available science (BAS)¹, as well as improvements to support clarity, ease of use, and general consistency with the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC). Key areas of recommended change are as follows:

- Update wetland and stream rating systems;
- Provide shoreline regulations for Sammamish River piers and dock, as well as provide additional details for public and commercial piers and docks;
- Increase flexibility for existing development and uses within buffers;

¹ Best available science is defined in KMC 18.55.110 as: 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.

- Streamline floodplain regulations; and
- Provide customized buffers for some uses on the Sammamish River.

Only a few of the recommended changes relate to regulatory compliance issues; most recommended changes support clarity, usability, and flexibility.

2.0 METHODS

This assessment focuses on compliance with the Growth Management Act (GMA) and Shoreline Management Act (SMA), consistency with the most recent and reliable science, and consideration of local conditions and needs.

To evaluate compliance, the following state agency checklists were completed:

- The Washington Department of Commerce's Critical Areas Checklist (Appendix A),
- The Washington Department of Ecology's Shoreline Master Program Periodic Review Checklist (Appendix B).

The City provided a number of resources that helped prioritize the regulations review effort for clarity, consistency, and usability. Those resources included written code interpretations, comments from various staff, applicants, and consultants, and an inventory of permit activity since the most recent round of regulations updates. The City also provided documents pertaining to a complex project within the City that might indicate a need for code changes.

This material, combined with agency information, state and federal laws and regulations and other literature, and experience of the consultant team with City projects and projects in other jurisdictions, forms the basis for the Gap Analysis. The entire critical areas code and SMP regulations were reviewed.

It is anticipated that public input through Planning Commission meetings, City Council meetings, and special focus groups will inform further refinements to this analysis.

3.0 CRITICAL AREAS REGULATIONS CHAPTER 18.55

Critical areas, as defined by the GMA (RCW 36.70A.030(5)), include the following:

- 1) Wetlands (Articles VII - IX of KMC 18.55),
- 2) Fish and wildlife habitat conservation areas (Articles X – XV, “Streams” and “Fish and Wildlife Habitats of Importance” of KMC 18.55),
- 3) Geologically hazardous areas (Articles XVI – XVIII of KMC 18.55),
- 4) Frequently flooded areas (Article XIX, “Flood Hazard Areas” of KMC 18.55), and
- 5) Critical aquifer recharge areas (TBD).

The following sections provide an evaluation of the entire Chapter 18.55 KMC.

3.1 Introductory Provisions

Table 1 reviews the general provisions that apply to all critical areas. Several of the changes, such as an updated definition for “qualified professional” and a discussion of approaches to Public Agency and Utility Exception, are in direct response to staff application of the code since 2006. Many of the other changes relate directly or indirectly to the principles and practice of mitigation sequencing.

TABLE 1
ANALYSIS OF AND RECOMMENDATIONS FOR KENMORE MUNICIPAL CODE
CHAPTER 18.55 – INTRODUCTORY PROVISIONS

Section of the Kenmore Municipal Code	Recommendation	Comment/Science Reference
Chapter 18.20, TECHNICAL TERMS AND LAND USE DEFINITIONS		
General	See comment.	Recognizing that there are definitions within KMC 16.10 (SMP Definitions) that are very specific to the Shoreline Master Program and Shoreline Management Act, and not eligible for revision, it may be helpful for consistency if the KMC 18.20 definitions and the non-specific shoreline definitions in KMC 16.10 are reviewed to look for opportunities to have a common definition.
18.20.2102 Practical alternative	Change the term to “practicable” in the definition and wherever it is used in Chapter 18.55.	<i>Practicable</i> overlaps with practical, but also includes the concept of feasibility that is important when determining what avoidance alternatives are appropriate to consider when the City is evaluating a project. The term “practicable alternative” accompanied by the definition provided in 18.20.2102 can be found in the Code of Federal Regulations (40 CFR 230.10(a)(2))
18.20.2205 Qualified professional	Suggest replacing current definition with the following: “Qualified professional” means a person with experience and training in the pertinent scientific discipline. A qualified professional must have obtained a B.S. or B.A. or equivalent degree and have at least two years of related work experience. A. A qualified professional for streams, fish, and wildlife habitat conservation areas must have a degree in biology, zoology, ecology, fisheries, or related academic field and professional experience evaluating these critical areas in the Puget Sound lowlands.	Feedback provided to City staff by developers, consultants, environmental agencies, etc. indicates that this definition needed to be updated, particularly to expand what education backgrounds are acceptable for stream/wetland/wildlife professionals.

Section of the Kenmore Municipal Code	Recommendation	Comment/Science Reference
	B. A qualified professional for geologic hazards must be a geologist, engineering geologist, or engineer licensed in the state of Washington, with experience evaluating the type of geologic hazard known or suspected to occur at the subject site. C. A qualified professional for aquifer recharge areas must be a geologist, hydrogeologist, or engineer licensed in the state of Washington, with experience in preparing hydrogeologic evaluations.	
18.20 (new)	Add the following new definition: “Seiche” means a temporary disturbance or oscillation in the water level of a lake or enclosed waterbody caused by a distant seismic event, for instance the Southern Whidbey Island Fault Zone or the Cascadia Subduction Zone.	Not previously included in the code.
18.20 (new)	Add the following new definition: “Tsunami” means a wave caused by an earthquake or landslide or other disturbance, particularly by displacement by the Seattle Fault or a seismically generated landslide into Lake Washington.	Not previously included in the code.
CHAPTER 18.55, ARTICLE I: PURPOSE AND GENERAL PROVISIONS		
18.55.090.D.3	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: 3. A distance equal to or less than 660 one-half mile (2,640 feet) from a bald eagle nest. 4. A distance equal to or less than 656 900 feet from the closest nest of a heron rookery; or	A distance of 660 feet is recommended by the <i>National Bald Eagle Management Guidelines</i> as being a suitable distance to restrict most disturbance during the breeding season (U.S. Fish and Wildlife Service, 2007). A half mile is a recommended limit only for blasting and other loud noises, and only if the eagle is not accustomed to that noise. WDFW’s <i>Management recommendations for Washington’s priority species: Great Blue Heron</i> (Azerrad, 2012) recommends a buffer of 656 feet year-round, with a larger buffer (1,320 feet) during the breeding season only for blasting and similar activities.

Section of the Kenmore Municipal Code	Recommendation	Comment/Science Reference
CHAPTER 18.55, ARTICLE III: APPLICABILITY, EXEMPTIONS, AND EXCEPTIONS		
18.55.130 Mapping	Revise as shown:	Revise for accuracy.
18.55.130.B.1.b	B. The following maps identify known potential critical areas located in the City: Delete existing wording, and replace with “Washington State Department of Fish and Wildlife Priority Habitats and Species online mapping system.” Also, add: “Washington State Department of Fish and Wildlife SalmonScape online mapping system” and “Washington State Department of Natural Resources water type maps.”	Update to reflect current information sources.
18.55.130.B.2	Delete existing wording, and replace with “Washington State Department of Fish and Wildlife priority habitat and species online mapping system.” Also, add: “Washington State Department of Fish and Wildlife SalmonScape online mapping system” and “Washington State Department of Natural Resources water type maps.”	This provision may need further revisions depending on decisions made about what habitats, if any, to add to the list of fish and wildlife habitats of importance.
18.55.130.B.3.a	Delete existing wording, and replace with “King County’s Landslide Hazards Along King County River Corridors interactive, web-based map folio”	The existing reference is no longer relevant due to new landslide maps by King County and Washington Department of Natural Resources (WDNR).
18.55.130.B.3.b	Delete existing wording, and replace with “Washington State Department of Natural Resources Geologic Information Portal”	Local, state, and county information is more up to date (state of the practice) than USGS information.
18.55.130.B.3.c	Revise to read, “Washington State Department of Natural Resources liquefaction susceptibility map for King County”	More recent resource.
18.55.140 Signs and fencing of critical areas.	Suggest revising as shown: 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 buffer associated with a stream, wetland or habitat conservation area <u>critical area and buffer</u> , when fencing will prevent future impacts to <u>ecological function the habitat conservation area</u> . <u>When the buffer is in a legally altered state and is permitted to remain in that condition, the fencing may be placed at the upland edge of any properly functioning portion of the buffer. The director may also waive the requirement for a fence if the applicant can</u>	This edit responds to a citizen comment, as well as experience with inflexible fence regulations in other jurisdictions. <i>Ecology’s Wetland Guidance for CAO Updates Western Washington Version</i> (Bunten and others, 2016) only requires a permanent fence around buffers to prevent intrusion by domestic grazing animals. Otherwise, installation of a barrier (either privacy fence or dense plantings) is one of a

Section of the Kenmore Municipal Code	Recommendation	Comment/Science Reference
	<u>demonstrate that a fence would interfere with current, legal public access or use.</u> 2. <u>A required permanent fence may be:</u> a. <u>The applicant shall be required to install a permanent natural Untreated wood, split-rail fence around the critical area and buffer, or</u> b. <u>Dense vegetation using native material appropriate for the ecoregion. Vegetation must be maintained at a minimum height of 3 feet, with thorny species incorporated to deter intrusion.</u>	number of methods presented in the code as an option to reduce a buffer width.
18.55.160 Exception – Public agency and utility.	Based on objectives listed at right, review this section and potentially develop adjustments to criteria and consider best management practices. 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	The City currently includes an exception process and criteria for public agency and utility exceptions. See current text at left. In 2016, the Central Puget Sound Growth Management Hearings Board found that the City of Kenmore's proposed amendments to its public agency and utility use exception to address both public facilities and utilities and to clarify other exception language needed to be reviewed under BAS rules. An analysis of the amendments in Ordinance 16-0418 to consider BAS rules would occur in subsequent steps of this SMP/CAR Update and meet the following objectives: - Analyze the environmental impacts to critical areas of expanding the kinds of projects that can pursue an exception. - Cite Best Available Science (BAS). - Indicate how current/proposed criteria limit risks to the functions and values of critical areas. Indicate if there are other criteria or common conditions that could be addressed.

Section of the Kenmore Municipal Code	Recommendation	Comment/Science Reference
	2. The application of this chapter would unreasonably restrict the ability to provide utility services to the public.	Address nonscientific information, including legal, social, cultural, economic, and political information, requiring departures from BAS.
ARTICLE IV. CRITICAL AREAS REPORT		
18.55.190 Critical areas reports – Requirements.	As requested by City staff and others, the definition of Qualified Professional, referenced in 18.5.190.A, has been revised (see KMC 18.20.2205, above).	In response to staff questions about the differences between critical areas reports (CARs) and habitat management plans (HMPs), Section 3.1.1 of this report provides a potential framework for distinguishing CARs from HMPs. If staff concurs with this approach, then the critical areas reports requirements maintained by the City could be modified.
18.55.200 Mitigation requirements	Revise this section as shown: A. The applicant shall avoid all impacts that degrade the functions and values of critical areas <u>unless there is no practicable alternative</u> . 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 [State Environmental Policy Act] documents.	These proposed changes make it clear that the application of mitigation sequencing does not occur in a vacuum. The changes establish clear sideboards that appropriately limit how applications are evaluated. These changes are consistent with state and federal law.
18.55.210 Mitigation sequencing	Modify the language as shown: Applicants shall demonstrate that all reasonable efforts have been <u>made to identify and evaluate practicable alternatives examined</u> with the intent to avoid and minimize impacts to critical areas <u>while still achieving the overall project purposes</u> . 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:	These proposed changes make it clear that the application of mitigation sequencing does not occur in a vacuum. The changes establish clear sideboards that appropriately limit how applications are evaluated. These changes are consistent with state and federal law.

3.1.1 Critical Area Reports and Habitat Management Plans

The City's current code refers applicants in each critical area section to the city manager to obtain a list of critical area report (CAR) requirements. A single, three-page document (titled *Critical Area Report Requirements Appendix A – Critical Areas Ordinance – KMC 18.55*) provides a listing of items required for each biological CAR type. There are significant overlaps between the requirements for wetland CARs, stream CARs, and fish and wildlife habitats of importance CARs (Table 2). The fish and wildlife habitats of importance regulations also include a special requirement for a habitat management plan (HMP) when a project could impact a state or federally listed threatened or endangered species. The code could be revised to remove this duplication by consolidating KMC 18.55.310 (wetlands CAR), 18.55.410 (streams CAR), 18.55.510 (fish and wildlife habitats of importance CAR), and 18.55.520 (HMP) under KMC 18.55.190. There may also be some overlaps between these biological CARs and a geologically hazardous area CAR, but there are likely more differences considering the focus of the latter CAR on effects to life and property.

TABLE 2
SUMMARY OF OVERLAPPING REPORTING REQUIREMENTS

Requirement	Wetlands CAR	Stream CAR	Fish/Wildlife CAR	HMP
Name and contact information of the applicant, a description of the proposal	X	X	X	
Name and contact information for the qualified biologist conducting the study	X	X	X	
Site condition and surrounding land use description	X	X	X	
Methodology	X			
Identification and characterization of all critical areas, wetlands, waterbodies, and buffers on and adjacent to the proposed project site	X	X		
Functions and values assessment	X	X	X	
PHS data review	X ¹	X ²	X	
Wildlife observations	X		X	X
Regulatory requirements and rating/classification	X	X		
Impact assessment	X	X	X	X
Mitigation (as per code requirements, considering avoidance, minimization, etc.) ³	X	X	X	X
Statement specifying the accuracy of the report and all assumptions made and relied upon	X			
Literature cited	X	X	X	
Figure to scale showing property boundaries, drainage features, roads, existing structures and other site features	X	X	X	X
Figure to scale showing critical areas	X	X	X	X
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				X

Requirement	Wetlands CAR	Stream CAR	Fish/Wildlife CAR	HMP
feet of the subject property as shown on maps maintained by the City.				
Prohibition or limitation of development activities within the fish and wildlife habitats of importance;				X ⁴
Establishment of a buffer around the fish and wildlife habitat conservation area;				X ⁴
Retention of certain vegetation or areas of vegetation critically important to the listed species;				X ⁴
Limitation of access to the fish and wildlife habitats of importance and buffer;				X ⁴
Seasonal restrictions on construction activities on the subject property;				X ⁴
Clustering of development on the subject property; and				X ⁴
The preservation or creation of a habitat area for the listed species.				X ⁴

Notes:

¹ Ecology 2014 wetland rating requires review of PHS data (Question H 3.1)

² PHS data review is typically used to determine fish presence/species

³ Mitigation plan requirements are identical across all critical areas

⁴ These elements are all typically associated with mitigation sequencing for avoiding, minimizing, or mitigating impacts

3.2 Wetlands

Significant changes to KMC 18.55 are proposed as a result of the City shifting from a city-specific wetland rating system to the Washington State Department of Ecology's (Ecology) *Washington State Wetland Rating System for Western Washington: 2014 Update* (Hruby, 2014). The 2014 wetland rating system is an update to the 2004 wetland rating system, represents the best information available at this time, and meets the needs of "best available science" under the GMA. The rating system groups wetlands into four categories, based on their:

- Sensitivity to disturbance,
- Rarity in the landscape,
- Functions they provide,
- Importance in maintaining biodiversity, and
- Ability to replace them.

The intent of the rating categories is to provide a basis for developing standards for protecting and managing the wetlands. Some decisions that were made based on the rating include the widths of buffers needed to protect the wetland from adjacent development, permitted uses in and around the wetland, and mitigation ratios.

Currently, the City utilizes a locally tailored wetland rating system with three tiers (Adolfson 2006a, 2006b, 2010). With the proposed update, the code will utilize the 2014 wetland rating

system developed by Ecology (Hruby, 2014) rather than the City's wetland rating system. The following discussion documents how utilizing the 2014 wetland rating system rather than the current rating system provides equivalent or better protection to the City's wetlands, as mandated by the GMA.

In 2006, Adolfson Associates, Inc. (Adolfson, 2006a) compared the City's wetland rating system to Ecology's 2004 wetland rating system (Hruby, 2004) to determine if the City's wetland rating system was as protective of wetlands as the 2004 wetland rating system. Five wetlands were compared, chosen to represent a range of wetland types. Table 3 summarizes the results of the Adolfson (2006a) comparison with an update to also include a comparison to Ecology's 2014 rating system. However, switching from the current three-tiered rating system to Ecology's 2014 four-tiered rating system is not linear. According to Adolfson (2006a), no wetlands within the City would be rated as Category I wetlands under the 2004 rating system. As part of its development of the final 2014 rating system, Ecology reevaluated 91 percent of the wetlands used in the calibration of the 2004 rating system. The 2014 system resulted in slightly fewer Category I wetlands than the 2004 system (13 versus 11 of 111 total) (Hruby, 2014). Without the original Adolfson wetland ratings used in 2004 and a re-rating of those wetlands using the 2014 system, it cannot be conclusively stated that the City does not have any Category I wetlands using the new system. However, Ecology's calibration results suggest that an increase in Category I wetlands, if any, would likely be slight. Based on the Adolfson comparison, Adolfson's determination that no Category I wetlands (using the 2004 system) are present within the City, and a direct conversion of wetland category between Ecology's 2004 and 2014 rating systems:

- Class 1 wetlands per current City regulations would likely be rated as Category II wetlands in Ecology's 2014 rating system,
- Class 2 wetlands per current City regulations would likely be rated as Category II or III wetlands in Ecology's 2014 rating system, and
- Class 3 wetlands per current City regulations would likely be rated as Category IV wetlands in Ecology's 2014 rating system.

**TABLE 3
SUMMARY OF WETLAND RATING COMPARISON**

Wetland No. / Name	Current Kenmore Wetland Class	2004 Ecology Habitat Score/ Function	2004 Ecology Total Score	2004 Ecology Rating	Estimated ¹ 2014 Ecology Habitat Score/ Function	Estimated ² 2014 Ecology Rating
1 - Swamp Creek No. 3	Class 1	20/Medium	66	Category II	5-7/Medium	Category II
2 - E. Lake Washington Wetland	Class 1	23/Medium	59	Category II	5-7/Medium	Category II
3 - Hanks Long Plat Wetland B	Class 2	19/Low	57	Category II	3-4/Low	Category II
4 - Forested Wetland East of 80 th and 192 nd	Class 2	14/Low	46	Category III	3-4/Low	Category III
5 - Cattail Ditch, Tolt Pipeline ROW	Class 3	9/Low	28	Category IV	3-4/Low	Category IV

¹ Scores estimated based on assumptions of 2004 scoring. The 2004 wetland rating forms were not available to comprehensively update the scoring to the 2014 rating system. 2014 wetland rating habitat score based on Ecology's table for converting habitat scores (Ecology, 2018). For purposes of normalizing the comparison of these two systems, the estimated 2014 rating assumes that the conditions in the wetland that gave rise to the 2004 habitat score as evaluated in 2006 have not changed

² Based on Ecology's calibration of the 2014 system against the 2004 system, the estimated 2014 rating is likely the same as the 2004 rating.

While the 2014 version of the rating systems keeps the same four wetland categories as the 2004 version, the scale of scores has been adjusted. Therefore, Ecology (2018) developed score conversion tables to convert 2004 habitat function scores to 2014 habitat function scores (Table 4). For example, in the 2004 version, the medium score range for habitat was 20-28 points and under the 2014 rating it is 5-7 points.

**TABLE 4
ECOLOGY RATING SYSTEM CONVERSION TABLE FOR HABITAT FUNCTION**

Function Score	2004 Point Range	2014 Point Range
High	29-36	8-9
Medium	20-28	5-7
Low	≤19	3-4

Ecology's guidance for wetland buffers is based on the assigned category of the wetland, as well as the scores for water quality, hydrology, and habitat functions. Each category has a broad range in buffer widths depending on the current level of function (Granger et al., 2005). As a result, the City has options for how to convert to the current Ecology system of wetland buffer requirements. One option is to establish conservative wetland buffers by incrementally increasing buffer widths based on the score of one function (i.e., water quality, hydrology, or habitat). Since water quality and hydrology functions can be replaced through engineering (i.e.,

compliance with a stormwater management manual), it makes sense to incrementally increase buffer widths as the habitat score increases to protect habitat functions. Ecology (2005 and 2013) provides guidance on this concept. Table 5 shows proposed buffer widths based on habitat scores and surrounding land use.

TABLE 5
SUMMARY OF RECOMMENDED WETLAND BUFFER RANGES
BASED ON HABITAT SCORES

Current Kenmore Wetland Class	Estimated 2014 Ecology Rating¹	2014 Ecology Habitat Score Range/Function	Current Kenmore Buffer	Recommended Range of Buffer (Ecology 2005, 2013)²
Class 1 or 2	Category II	8-9/High	150 feet	150-300 feet
Class 2	Category II	5-7/Medium	150 feet	75-100 feet
Class 2	Category II	3-4/Low	100 feet	50-100 feet
Class 3	Category III	8-9/High	100 feet	150-300 feet
Class 2	Category III	5-7/Medium	100 feet	75-150 feet
Class 2	Category III	3-4/Low	100 feet	40-80 feet
Class 3	Category IV	3-4/Low	60 feet	25 – 75 feet

¹Assumes no Category I wetlands are present within City of Kenmore (Adolfson, 2006a)

² Range is based on adjacent land use

Table 6 details the recommended changes to KMC 18.55 Part 300. Most recommended changes are a result of the City's plan to shift to Ecology's rating system. Other significant revisions include recommended changes to wetland buffers and the addition of language to allow the City to develop and use an In-Lieu Fee program.

TABLE 6
ANALYSIS OF AND RECOMMENDATIONS FOR KENMORE MUNICIPAL CODE CHAPTER 18.55 – WETLANDS

Section of the Kenmore Municipal Code	Recommendation	Comment/Science Reference
ARTICLE VII. WETLANDS – DESIGNATION AND RATING		
18.55.300.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. <u>Identification of wetlands and delineation of their boundaries shall be done in accordance with the Corps of Engineers wetlands delineation manual (Corps 1987) and applicable regional supplement (Corps 2010), as revised or as may be revised in WAC 173-22-035 and 173-22-080.</u>	Per WAC 173-22-035 - Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. The applicable approved federal manual is (Corps, 1987) and regional supplement (Corps, 2010). Per the Ecology website, the Washington State Identification and delineation Manual (Ecology, 1997) is obsolete and no longer used.
18.55.300.B – Wetland Ratings	Amend as follows: Wetlands, <u>as defined by this chapter</u> , shall be <u>classified and scored using the 2014 Department of Ecology Washington State Wetland Rating System for Western Washington</u> , Publication #14-06-029 (Hruby, 2014 or latest edition), <u>which contains the definitions and methods for determining whether the criteria below are met.</u> 1. Category I. Category I wetlands are: (1) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (2) bogs; (3) mature and old-growth forested wetlands larger than 1 acre; and (4) wetlands that perform many functions well (scoring 23 points or more). These wetlands: (1) represent unique or rare wetland types, (2) are more sensitive to disturbance than most wetlands, (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime, or (4) provide a high level of functions.	The 2014 <i>Wetland Rating System for Western Washington</i> was designed to differentiate among wetlands based on their sensitivity to disturbance, their significance, their rarity, our ability to replace them, and the functions they provide. This rating represents the current Best Available Science under the Growth Management Act. See description above for an explanation of how the Kenmore wetland rating system generally converts to the Ecology rating system.

Section of the Kenmore Municipal Code	Recommendation	Comment/Science Reference
	<u>2. Category II. Category II wetlands are wetlands larger than 1 acre or those found in a mosaic of wetlands, or wetlands with a moderately high level of functions (scoring between 20 and 22 points).</u> <u>3. Category III. Category III wetlands have a moderate level of functions (scoring between 16 and 19 points) and can often be adequately replaced with a well-planned mitigation project. Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.</u> <u>4. Category IV. Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that can often be adequately replaced with a well-planned mitigation project, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree. using criteria outlined below:</u> <u>1. Wetlands Classification. Wetlands, as defined by this chapter, shall be designated Class 1, Class 2, and Class 3 according to the criteria below:</u> <u>a. Class 1 wetlands are those wetlands that meet any of the following criteria:</u> <u>(1) Documented habitat for federal or State listed endangered or threatened fish, animal, or plant species; or</u> <u>(2) Wetlands listed as high quality habitats in the Natural Heritage Information System; or</u> <u>(3) Wetlands with irreplaceable ecological functions, including sphagnum bogs and fens or natural forested swamps; or</u> <u>(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.</u> <u>b. Class 2 wetlands are those wetlands which are not Class 1 wetlands and meet any of the following criteria:</u> <u>(1) Wetlands that have significant functions that may not be adequately replicated through creation or restoration; or</u> <u>(2) Wetlands associated with Type 2 or 3 streams; or</u> <u>(3) Wetlands greater than one acre in size; or</u>	

Section of the Kenmore Municipal Code	Recommendation	Comment/Science Reference
	(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. e. Class 3 wetlands are those wetlands not rated as Class 1 or 2 wetlands, but greater than 1,000 square feet in size.	
18.55.300.C Buffer Areas	No amendments	Discuss with City: If buffers are discussed in this section, it makes sense to move 18.55.320(F)1-3 to this section and only discuss allowed alterations to buffers in 18.55.320.
ARTICLE IX. WETLANDS – PERFORMANCE STANDARDS		
Article IX. Wetlands – Performance Standards	Suggested renaming this section.	Discuss with City: Suggest renaming “Performance Standards” to “General Standards and Requirements” or “Allowed Alterations and Uses” (depending on what happens to 18.55.320(F)1). Performance Standards have a very specific meaning when dealing with critical areas and this section of code does not reflect that.
18.55.320.A	Revise as shown: A. Unless otherwise allowed by this chapter, a Activities may only be permitted in a wetland or wetland buffer after demonstration of mitigation sequencing, and 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.	Change made to emphasize the need for mitigation sequencing.
18.55.320.C	Amend as follows: Class 1 Category I and II Wetlands. Activities and uses shall be prohibited from Class 1 Category I and II wetlands, except as provided for in the public agency and utility exception or reasonable use exception sections of this chapter.	Amendments made to address wetland rating classification changes. Discuss with City: Add provision allowing for limited boardwalk trails through wetlands as part of a public project, without requiring a

Section of the Kenmore Municipal Code	Recommendation	Comment/Science Reference				
		PAUE or RUE? Boardwalk trails could also be allowed in quasi-public community areas if the developer provides assurances through signage and formal recording on title that the trails are publicly accessible.				
18.55.320.D	Amend as follows: Class 2 and 3 <u>Category III and IV</u> Wetlands. Activities may be permitted, if the city manager ...	Amendments made to address wetland rating classification changes.				
18.55.320.E	Replace the existing exemption language as follows: 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. All isolated Category III and Category IV wetlands less than 1,000 square feet are exempt from the buffer provisions contained in this chapter and the normal mitigation sequencing process in KMC 18.55.210 if they meet the following criteria as documented in a critical areas report: <u>1. Are not associated with riparian areas or buffers</u> <u>2. Are not part of a wetland mosaic</u> <u>3. Do not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife or species of local importance identified in KMC 18.55.500.</u> <u>They may be filled if impacts are fully mitigated based on provisions in KMC 18.55.330. If available, impacts should be mitigated through the purchase of credits from an in-lieu fee program or mitigation bank, consistent with the terms and conditions of the program or bank.</u>	Amendments made to address wetland rating classification changes and to add additional sideboards to circumstances when small wetlands may be filled. The proposed language is adapted from <i>Wetlands & CAO Updates: Guidance for Small Cities Western Washington Version</i> (Bunten and others, 2010). As noted in Bunten and others (2010), “The scientific literature does not support exempting wetlands that are below a certain size. While we recognize an administrative desire to place size thresholds on wetlands that are to be regulated, you need to be aware that it is not possible to conclude from size alone what functions a particular wetland may be providing. Ecology has developed a strategy for exempting small wetlands when additional criteria are considered.”				
18.55.320.F.1	Amend as follows: F. Wetland Buffers. 1. Wetland buffers shall be established as follows: <table><tr><th><u>Wetland Category Type</u></th><th><u>Buffer Width (Feet)</u></th></tr><tr><td><u>Class 4 Category I</u></td><td>150</td></tr></table>	<u>Wetland Category Type</u>	<u>Buffer Width (Feet)</u>	<u>Class 4 Category I</u>	150	Amendments to buffer table based on keeping the same buffer widths in code. Used the wetlands previously identified as Class 1, 2, or 3 wetlands by Adolfson (2006a) that were also rated using the 2004 wetland rating system. Then the habitat scores for these wetlands were converted into the 2014 habitat scores using the conversion table provided by
<u>Wetland Category Type</u>	<u>Buffer Width (Feet)</u>					
<u>Class 4 Category I</u>	150					

Section of the Kenmore Municipal Code	Recommendation			Comment/Science Reference										
	<table><tr><td><u>Category II Wetlands with habitat score of 5-9 points</u></td><td><u>150</u></td></tr><tr><td><u>Class 2 Category II wetlands with habitat score of 3-4 points</u></td><td>100</td></tr><tr><td><u>Category III wetlands with habitat score of 5-9 points</u></td><td><u>100</u></td></tr><tr><td><u>Class 3 Category III wetlands with habitat score of 3-4 points</u></td><td>60</td></tr><tr><td><u>Category IV wetlands</u></td><td><u>40</u></td></tr></table>	<u>Category II Wetlands with habitat score of 5-9 points</u>	<u>150</u>	<u>Class 2 Category II wetlands with habitat score of 3-4 points</u>	100	<u>Category III wetlands with habitat score of 5-9 points</u>	<u>100</u>	<u>Class 3 Category III wetlands with habitat score of 3-4 points</u>	60	<u>Category IV wetlands</u>	<u>40</u>			Ecology (2018). Added additional buffer requirements to code language based on habitat scores to differentiate between wetland characteristics valuable to the City given a singular wetland category. Discuss with City: - Are these buffer widths realistic? - Should there be different buffer widths for already developed parcels vs. undeveloped parcels to reduce variance requests? Should this section of code be moved to 18.55.310.C?
<u>Category II Wetlands with habitat score of 5-9 points</u>	<u>150</u>													
<u>Class 2 Category II wetlands with habitat score of 3-4 points</u>	100													
<u>Category III wetlands with habitat score of 5-9 points</u>	<u>100</u>													
<u>Class 3 Category III wetlands with habitat score of 3-4 points</u>	60													
<u>Category IV wetlands</u>	<u>40</u>													
18.55.320.F.4	Amend as follows: a. Wetland Buffer Width Averaging. ... (5) For Class 1 and 2 wetlands, the buffer width shall not be reduced by more than 25 percent in any one place. For standard buffers of 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 <u>up to 25 percent</u> 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: <table><tr><th>Category</th><th>Maximum Buffer Reduction</th><th>Minimum Buffer Width (Feet)</th></tr><tr><td>1</td><td>25 percent</td><td>112.5 feet</td></tr></table>			Category	Maximum Buffer Reduction	Minimum Buffer Width (Feet)	1	25 percent	112.5 feet		Revisions based on switch from City wetland classification to Ecology classification. Also, increased the amount of reduction that is allowed to 25% of the standard buffer, consistent with Ecology’s model ordinances. Discuss with City: Allow reduced buffer widths if the buffer is bisected by a road or other development? It is typically the applicant’s burden to demonstrate that a given roadway is a meaningful barrier to buffer function. Some additional guidelines could be included in the code, however, such as minimum road width or other criteria. The City may also wish to consider having an administrative process to reduce other property setbacks that enable minimization of wetland buffer reductions.			
Category	Maximum Buffer Reduction	Minimum Buffer Width (Feet)												
1	25 percent	112.5 feet												

Section of the Kenmore Municipal Code	Recommendation					Comment/Science Reference
		2	25 percent	75 feet		
		3	25 percent	45 feet		
	Possible language for City Discussion item: e. <u>The City may approve a modification of the minimum required buffer width to the edge of a legally established roadway, if the roadway transects a wetland buffer, and meets the following criteria:</u> (1) <u>Does not provide additional protection of the proposed development or the wetland; and</u> (2) <u>Provides insignificant biological, geological or hydrological buffer functions relating to the other portion of the buffer adjacent to the wetland.</u> f. <u>The City may approve a modification of the minimum required buffer width, where proposed development or use is isolated from the critical area and its contiguous buffer by an existing legally established building, detached garage, accessory dwelling unit, driveway, commercial parking area, or retaining wall over six (6) feet in height. For the buffer modification to be approved, the applicant must demonstrate conclusively in a critical area report that all of the following criteria are met.</u> (1) <u>The modification may not be requested for such improvements as fences, sheds, patios, decks or other similar structures and impervious surfaces.</u> (2) <u>The City may modify the buffer width if the request is found to meet the following criteria:</u> (a) <u>The existing legal improvement between the proposed development or use creates a substantial barrier to buffer function;</u> (b) <u>The isolated section of buffer does not provide additional protection of the critical area from the proposed development; and</u> (c) <u>The isolated section of buffer does not provide significant hydrological, water quality, and wildlife buffer functions relating to the portion of the buffer adjacent to the critical area.</u>					
18.55.320.F.6.b	Suggested modification to distinguish private from public trails, and to support implementation of the City's Walkways & Waterways initiative.					Discuss with City: 18.55.320.F.6.b identifies that walkways and trails are allowed in the outer 25% of a buffer. However, for trails to

Section of the Kenmore Municipal Code	Recommendation	Comment/Science Reference
	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: b. Passive Recreation. Passive recreation facilities designed in accordance with an approved critical areas report, including: (1) <u>Private</u> 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) <u>Public walkways and trails; provided, that those pathways are located and designed based on existing conditions to prevent net degradation of the buffer and wetland. The trail proposal shall be accompanied by a plan demonstrating that the ecological functions of the overall required buffer area on a project site would be substantially improved. When practicable, trails should be located at least 50 feet from the wetland edge, but trails may extend closer to the wetland if necessary to reduce impacts on critical areas or adjacent properties or to access a viewing platform or a pedestrian bridge over an associated waterbody. Spur trails may be extended to the wetland's edge, but such access areas should be limited in order to protect ecological functions of the buffer and wetland.</u>	connect to Bothell and Burke Gilman, consistent with the City's Walkways & Waterways initiative, trails may need to be closer to river-, stream- or lake-associated wetlands than the outer 25% of a 150- or 100-foot buffer. The suggested new (2) is adapted from language currently included in the City's SMP 16.60.020.B.1 (and suggested for removal if that concept is incorporated here instead for application to all wetland buffer environments, not just in shoreline jurisdiction). These provisions, or similar, could also be allowed in quasi-public community areas if the developer provides assurances through signage and formal recording on title that the trails are publicly accessible.
18.55.330 Performance standards – Mitigation requirements.	Suggest revising as shown: Buffers for Mitigation Shall Be Consistent. <u>When mitigation for a wetland impact includes creation of new wetland area, that new area shall be provided with a functioning . All mitigation sites shall have</u> 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.	In urban areas, wetland mitigation more often consists of enhancement or rehabilitation of existing wetland features. A requirement to provide a buffer on existing features is often not feasible without removing public infrastructure (such as roads) or private developments owned by others, and would preclude enhancement or rehabilitation of those wetland areas as mitigation.
18.55.330.G Mitigation Ratios	Amend as follows: 1. Acreage Replacement Ratios. The following ratios shall apply to creation or restoration that is in-kind, on-site, the same <u>category class</u>, timed prior to or concurrent with alteration, and has a high probability of success. These ratios do	After this update, mitigation ratios will no longer be different between KMC 18.55 and 16.65.

Section of the Kenmore Municipal Code	Recommendation	Comment/Science Reference																												
	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 <u>Standard Wetland Mitigation Ratios</u> <table><tr><th><u>Category and Type of Wetland</u></th><th><u>Creation or Reestablishment (C/R)</u></th><th><u>Creation (C) or Reestablishment (R) plus Enhancement (E)</u></th><th><u>Enhancement (E) Only</u></th></tr><tr><td><u>Category I</u></td><td><u>4:1</u></td><td><u>1:1 C/R plus 6:1 E</u></td><td><u>16:1</u></td></tr><tr><td><u>Category I (Mature Forested)</u></td><td><u>6:1</u></td><td><u>1:1 C/R plus 10:1 E</u></td><td><u>24:1</u></td></tr><tr><td><u>Category II</u></td><td><u>3:1</u></td><td><u>1:1 C/R plus 4:1 E</u></td><td><u>12:1</u></td></tr><tr><td><u>Category III</u></td><td><u>2:1</u></td><td><u>1:1 C/R plus 2:1 E</u></td><td><u>8:1</u></td></tr><tr><td><u>Category IV</u></td><td><u>1.5:1</u></td><td><u>1:1 C/R plus 1:1 E</u></td><td><u>6:1</u></td></tr><tr><td><u>Buffer</u></td><td><u>1:1</u></td><td><u>1:1</u></td><td><u>1:1</u></td></tr></table> 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. 3. Decreased Replacement Ratio. a. The city manager may decrease the <u>creation/reestablishment replacement</u> ratios required for Class 1 and 2 <u>Category II and III</u> wetlands to 2:1 and 1.5:1, respectively, under the following circumstances: 4. <u>Credit/Debit Method.</u> As an alternative to the standard mitigation ratios, the City may allow mitigation based on the “credit/debit” method developed by the Department of Ecology, and documented in <i>Calculating Credits and Debits for</i>	<u>Category and Type of Wetland</u>	<u>Creation or Reestablishment (C/R)</u>	<u>Creation (C) or Reestablishment (R) plus Enhancement (E)</u>	<u>Enhancement (E) Only</u>	<u>Category I</u>	<u>4:1</u>	<u>1:1 C/R plus 6:1 E</u>	<u>16:1</u>	<u>Category I (Mature Forested)</u>	<u>6:1</u>	<u>1:1 C/R plus 10:1 E</u>	<u>24:1</u>	<u>Category II</u>	<u>3:1</u>	<u>1:1 C/R plus 4:1 E</u>	<u>12:1</u>	<u>Category III</u>	<u>2:1</u>	<u>1:1 C/R plus 2:1 E</u>	<u>8:1</u>	<u>Category IV</u>	<u>1.5:1</u>	<u>1:1 C/R plus 1:1 E</u>	<u>6:1</u>	<u>Buffer</u>	<u>1:1</u>	<u>1:1</u>	<u>1:1</u>	Ratios were based on Ecology et al., 2006 – The main difference between code and Ecology et al., 2006 is the creation ratio for Category IV/Class 3 wetlands increasing from 1:1 to 1.5:1.
<u>Category and Type of Wetland</u>	<u>Creation or Reestablishment (C/R)</u>	<u>Creation (C) or Reestablishment (R) plus Enhancement (E)</u>	<u>Enhancement (E) Only</u>																											
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<u>Buffer</u>	<u>1:1</u>	<u>1:1</u>	<u>1:1</u>																											

Section of the Kenmore Municipal Code	Recommendation	Comment/Science Reference
	<u>Compensatory Mitigation in Wetlands of Western Washington, Final Report, March 2012 (Hruby, 2012 or as revised).</u>	
18.55.330.H	Amend as follows: 2. At a minimum, enhancement acreage shall be double the acreage required for creation or restoration.	No longer needed with the addition of an Enhancement column to the mitigation ratio table above.
18.55.330.J (new)	Suggest adding the following mitigation strategy: <u>In Lieu Fee Programs. To aid in the implementation of off-site mitigation, the City may develop an in-lieu fee (ILF) program or allow participation in an ILF program. ILF programs shall be developed and approved through a public process and be consistent with federal rules, state policy on in-lieu fee mitigation, and state water quality regulations. An approved ILF program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu program sponsor, a governmental or non-profit natural resource management entity. Credits from an approved in-lieu-fee program may be used when paragraphs 1-6 below apply:</u> <u>The city manager determines that it would provide environmentally appropriate compensation for the proposed impacts.</u> <u>The mitigation will occur on a site identified using the site selection and prioritization process in the approved ILF program instrument.</u> <u>The proposed use of credits is consistent with the terms and conditions of the approved ILF program instrument.</u> <u>Land acquisition and initial physical and biological improvements of the mitigation site must be completed within three years of the credit sale.</u> <u>Projects using ILF credits shall have debits associated with the proposed impacts calculated by the applicant's qualified wetland scientist using the method consistent with the credit assessment method specified in the approved instrument for the ILF program.</u> <u>Credits from an approved ILF program may be used to compensate for impacts located within the service area specified in the approved ILF instrument.</u>	A 2008 federal rule titled "Compensatory Mitigation for Losses of Aquatic Resources; Final Rule (Federal Rule) 33 CFR Section 332.3(b)" establishes preferences for wetland compensation in the following order: • Wetland mitigation banks, • In-lieu fee programs, • Permittee-responsible mitigation under a watershed approach, • Permittee-responsible mitigation through on-site and in-kind mitigation, and lastly • Permittee-responsible mitigation through off-site and/or out-of-kind mitigation. Accordingly, it is useful, particularly in urban areas where good options for permittee-responsible mitigation are rarer, to allow applicants a full range of scientifically supported mitigation mechanisms. KMC 18.55.330.I allows for use of mitigation banks. While there are no approved mitigation banks that have a service area that includes Kenmore, King County does have an in-lieu-fee program that could be available to Kenmore residents if allowed by code. The County's program can be used as

Section of the Kenmore Municipal Code	Recommendation	Comment/Science Reference
		compensation for unavoidable wetland, river, stream, and buffer impacts. Similar language could be added to the Streams This ILF language was taken mostly from <i>Wetlands & CAO Updates: Guidance for Small Cities Western Washington Version</i> (Bunten and others, 2010).
18.55.330.K and L (new)	Suggest adding the following: <u>K. Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, state policy on advance mitigation, and state water quality regulations.</u> <u>L. Alternative Mitigation Plans. The city manager may approve alternative critical areas mitigation plans that are based on best available science, such as priority restoration plans that achieve restoration goals identified in the SMP. Alternative mitigation proposals must provide an equivalent or better level of protection of critical area functions and values than would be provided by the strict application of this chapter, and must contain all of the standard components of a mitigation plan. The city manager shall consider the following for approval of an alternative mitigation proposal:</u> <u>1. The proposal uses a watershed approach consistent with <i>Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington)</i> (Ecology Publication #09-06-32, Olympia, WA, December 2009).</u> <u>2. Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas.</u> <u>4. There is clear potential for success of the proposed mitigation at the proposed mitigation site.</u> <u>5. A wetland of a different type is justified based on regional needs or functions and values; the replacement ratios may not be reduced or eliminated unless the reduction results in a preferred environmental alternative.</u>	For the same reasons as KMC 18.55.330.J is recommended, the addition of these two strategies may help applicants meet City requirements, as well as satisfy state and federal guidance. While not likely used often, these two mechanisms can provide flexibility to applicants when needed and justified.

3.3 Streams

The majority of recommended changes to KMC 18.55 Part 400 are a result of updating to the stream classification system developed by Washington Department of Natural Resources (WDNR) in WAC 222-16-030. The stream typing changes from a numerical classification (e.g., Type 1) to an alphabetical classification (e.g., Type S) (Table 7). WDNR's classification is based on presence of suitable fish habitat, not the actual presence of fish. Fish habitat is also defined explicitly to include potential habitat which could be used by fish following restoration and removal of any unnatural downstream fish blockages. WDNR has developed a Forest Practices Application Mapping Tool (<https://fpamt.dnr.wa.gov/default.aspx>) that provides a preliminary classification of a number of streams in Kenmore using its typing system.

TABLE 7
SUMMARY OF STREAM RATING COMPARISON

Current Kenmore Stream Type	Key Features	WDNR Water Type	Key Features	Comment
1	Shorelines of the State	S	Shorelines of the State	The change in typing systems does not have any substantive implications.
2	Salmonid-bearing, perennial or intermittent	F	Fish habitat	All City-classified Type 2 and Type 3 streams would be in a single category of Type F. A key difference between the City's and WDNR's typing systems is that WDNR's classification is based on presence of suitable fish habitat, not the actual presence of fish. Fish habitat is also defined explicitly to include <i>potential</i> habitat which could be used by fish following restoration and removal of any unnatural downstream fish blockages.
3	Non-salmonid-bearing, perennial or intermittent			
4	Non-fish, perennial or intermittent	Np	Non-fish habitat, perennial	Some waterbodies that may be classified as Type 4 under the City's current system could be upgraded to Type F if habitat is present.
		Ns	Non-fish habitat, seasonal	

Other changes include recommendations to provide code clarification, and to add flexibility to reporting and buffer management requirements (Table 8). To maintain some consistency between the City's current buffers assigned to streams and the proposed new typing system, WDNR's Type F is sub-divided for buffer application purposes into streams with salmonid habitat and stream with non-salmonid fish habitat.

TABLE 8
ANALYSIS OF AND RECOMMENDATIONS FOR KENMORE MUNICIPAL CODE CHAPTER 18.55 – STREAMS

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
ARTICLE X. STREAMS – DESIGNATION AND RATING		
18.55.400 Designation and rating of streams	Amend as follows: A. Stream Classification. Streams shall be designated Type 4S, Type 2E, Type 3 Np, and Type 4 Ns according to the criteria in this section identified in WAC 222-16-030. 1. Type 4 S <u>Waters streams</u> are those <u>segments of natural waters streams</u> identified as “shorelines of the State” under Chapter 90.58 RCW, including the Sammamish River and the main stem of Swamp Creek, <u>as well as Lake Washington.</u> 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. 2. Type F Water means segments of natural waters other than Type S Waters, <u>which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat</u>	Recommended stream typing gets updated to most current water typing system (WAC 222-16-030). Note: Suggest replacing “streams” globally when it is a general term with “waters” or “waterbodies” (or even “streams and other waterbodies”) so that it also captures lakes/ponds.

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
	<u>3. Type Np Water means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are flowing waters that do not go dry any time of a year of normal rainfall and include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.</u> <u>4. Type Ns Water means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to Type S, F, or Np Waters.</u>	
18.55.400.C	See comment	Discuss with City: If buffers are discussed in this section, it makes sense to move 18.55.420.A-B to this section and only discuss allowed alterations to buffers in 18.55.420.
ARTICLE XII. STREAMS – PERFORMANCE STANDARDS		
18.55.420 Performance standards – General.	Suggested renaming this section.	Suggest renaming “Performance Standards” to “General Standards and Requirements” or “Allowed Alterations and Uses” (depending on what happens to 18.55.420.A-B). Performance Standards has a very specific meaning when dealing with critical areas and this section of code does not reflect that.
18.55.420.B.1	Amend as follows: 1. The following buffers are established for streams to protect functions and values; including heron habitat:	Amendments made to address stream rating classification changes, and refer to KMC 16.65.020 for shoreline-specific buffers. Discuss with City: Added a minimal buffer to minimize the disincentive for “daylighting” of streams (similar to Mercer Island). The City could also require a larger buffer, but provide

Section of the Kenmore Municipal Code	Recommendation			Comment / Science Reference															
	<table><tr><th>Stream Type</th><th>Buffer Width (Feet)</th></tr><tr><td>Type 4 S – <u>Swamp Creek, Lake Washington and Sammamish River and Little Swamp Creek</u></td><td><u>See KMC 16.65.020 150</u></td></tr><tr><td><u>Type F - Little Swamp Creek</u></td><td><u>150</u></td></tr><tr><td>Type 2F (other waterbodies used by or suitable for <u>salmonid fish</u>)</td><td>100</td></tr><tr><td>Type 3F (waterbodies used by or suitable for fish other than <u>salmonids</u>)</td><td>50</td></tr><tr><td>Type 4Np or Ns</td><td>25</td></tr><tr><td><u>Any type stream restored from a pipe</u></td><td><u>25</u></td></tr></table>			Stream Type	Buffer Width (Feet)	Type 4 S – <u>Swamp Creek, Lake Washington and Sammamish River and Little Swamp Creek</u>	<u>See KMC 16.65.020 150</u>	<u>Type F - Little Swamp Creek</u>	<u>150</u>	Type 2F (other waterbodies used by or suitable for <u>salmonid fish</u>)	100	Type 3F (waterbodies used by or suitable for fish other than <u>salmonids</u>)	50	Type 4Np or Ns	25	<u>Any type stream restored from a pipe</u>	<u>25</u>	other incentives to owners to encourage daylighting. Prior to daylighting, the City could ensure there's a setback from the pipe to allow adequate access and maintenance. Note: A 50-foot buffer for a fish-bearing stream has minimal support in the literature. However, in Kenmore, most streams suitable for and/or used by fish would be occupied by some species of salmonid, such as cutthroat trout or coho salmon. Few waterbodies would be suitable <i>only</i> for non-salmonids.	
Stream Type	Buffer Width (Feet)																		
Type 4 S – <u>Swamp Creek, Lake Washington and Sammamish River and Little Swamp Creek</u>	<u>See KMC 16.65.020 150</u>																		
<u>Type F - Little Swamp Creek</u>	<u>150</u>																		
Type 2F (other waterbodies used by or suitable for <u>salmonid fish</u>)	100																		
Type 3F (waterbodies used by or suitable for fish other than <u>salmonids</u>)	50																		
Type 4Np or Ns	25																		
<u>Any type stream restored from a pipe</u>	<u>25</u>																		
18.55.420.B.4	Buffer Reduction with Enhancement. Standard buffer widths for degraded buffers may be reduced <u>a maximum of 25 percent of the standard width</u> 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: <table><tr><th>Stream Type</th><th>Maximum Buffer Reduction</th><th>Minimum Buffer Width (Feet)</th></tr><tr><td>Type 1 and Little Swamp Creek</td><td>25 percent</td><td>112.50 feet</td></tr><tr><td>Type 2</td><td>25 percent</td><td>75.00 feet</td></tr><tr><td>Type 3</td><td>25 percent</td><td>37.50 feet</td></tr><tr><td>Type 4</td><td>25 percent</td><td>18.75 feet</td></tr></table>			Stream Type	Maximum Buffer Reduction	Minimum Buffer Width (Feet)	Type 1 and Little Swamp Creek	25 percent	112.50 feet	Type 2	25 percent	75.00 feet	Type 3	25 percent	37.50 feet	Type 4	25 percent	18.75 feet	Amendments made to eliminate an unnecessary table consistent with wetland regulations format.
Stream Type	Maximum Buffer Reduction	Minimum Buffer Width (Feet)																	
Type 1 and Little Swamp Creek	25 percent	112.50 feet																	
Type 2	25 percent	75.00 feet																	
Type 3	25 percent	37.50 feet																	
Type 4	25 percent	18.75 feet																	

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
18.55.420.B.5 (new)	5. <u>Reduction of Standard Buffer. The City may approve a modification of the minimum required buffer width to the edge of a legally established roadway, if the roadway transects a stream buffer, and meets the following criteria:</u> <u>(1) Does not provide additional protection of the proposed development or the stream; and</u> <u>(2) Provides insignificant biological, geological or hydrological buffer functions relating to the other portion of the buffer adjacent to the stream.</u> f. <u>The City may approve a modification of the minimum required buffer width, where proposed development or use is isolated from the critical area and its contiguous buffer by an existing legally established building, detached garage, accessory dwelling unit, driveway, commercial parking area, retaining wall over six (6) feet in height, or similar structure. For the buffer modification to be approved, the applicant must demonstrate conclusively in a critical area report that all of the following criteria are met.</u> <u>(1) The modification may not be requested for such improvements as fences, sheds, patios, decks or other similar structures and impervious surfaces.</u> <u>(2) The City may modify the buffer width if the request is found to meet the following criteria:</u> <u>(a) The existing legal improvement between the proposed development or use creates a substantial barrier to buffer function;</u> <u>(b) The isolated section of buffer does not provide additional protection of the critical area from the proposed development; and</u> <u>(c) The isolated section of buffer does not provide significant hydrological, water quality, and wildlife buffer functions relating to the portion of the buffer adjacent to the critical area.</u>	Discuss with City: Allow reduced buffer widths if the buffer is bisected by a road or other development? It is typically the applicant's burden to demonstrate that a given roadway is a meaningful barrier to buffer function. Some additional guidelines could be included in the code, however, such as minimum road width or other criteria.
18.55.420.B.6.b	Suggested modification to distinguish private from public trails, and to support implementation of the City's Walkways & Waterways initiative. 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: b. Passive Recreation. Passive recreation facilities designed in accordance with an approved critical areas report, including:	Discuss with City: 18.55.420.B.6(b) identifies that walkways and trails are allowed in the outer 25% of a buffer. However, for trails to connect to Bothell and Burke Gilman, consistent with the City's Walkways & Waterways initiative, trails may need to be closer to river, stream, or lake than the outer 25% of a buffer.

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
	(1) <u>Private</u> walkways and trails; provided, that those pathways that are generally parallel to the perimeter of the stream <u>or lake</u> shall be located in the outer 25 percent of the buffer area; (2) <u>Public walkways and trails; provided, that those pathways are located and designed based on existing conditions to prevent net degradation of the buffer and stream or lake. The trail proposal shall be accompanied by a plan demonstrating that the ecological functions of the overall required buffer area on a project site would be substantially improved.</u> (a) <u>When practicable, trails should be located at least 50 feet from the stream or lake edge, but trails may extend closer to the waterbody if necessary to reduce impacts on critical areas or adjacent properties or to access a viewing platform or a pedestrian bridge.</u> (b) <u>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 and waterbody.</u> (c) <u>In order to allow for a waterfront promenade area along the inner harbor area of the Downtown Waterfront shoreline environment on Lake Washington, public access improvements may extend to the water's edge.</u>	The suggested new (2) is adapted from language included in the City's SMP 16.60.020.B.1 and 16.65.020.B.4.b (and suggested for removal if that concept is incorporated here instead for application to all buffer environments, not just in shoreline jurisdiction). These provisions, or similar, could also be allowed in quasi-public community areas if the developer provides assurances through signage and formal recording on title that the trails are publicly accessible.
18.55.420.C.1	Amend as follows: C. Stream Crossings. Stream crossings may be allowed and may encroach on the otherwise required stream buffer if: 1. All crossings <u>must be designed using the most recent version of Washington Department of Fish and Wildlife's Water Crossing Design Guidelines (Barnard and others, 2013, or as revised), prioritizing use</u> 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 3E streams if the applicant demonstrates that such methods and their implementation will pose no harm to the stream nor inhibit migration of fish;	Amendments made to address stream rating classification changes and require the use of WDFW design standards (Barnard and others, 2013).

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
18.55.420.D	Amend as follows: - Stream relocations may be allowed only for: - All stream types as part of a public project for which a public agency and utility exception is granted pursuant to this chapter; or - Type 3 or 4 F streams with fish use other than salmonids, Np, and Ns streams for the purpose of enhancing resources in the stream if: - For any relocation allowed by this section, the <i>applicant</i> shall <u>base the design on the most recent version of the multi-agency <i>Stream Habitat Restoration Guidelines</i> (Cramer, 2012 or as revised)</u>, and demonstrate, based on information provided by a civil engineer and a qualified <i>biologist</i>, that:	Amendments made to address stream rating classification changes and reference the latest scientific design standards (Cramer, 2012). Discuss with City: Does City want to add restoration as an allowed reason for stream relocation of salmonid-bearing streams?
18.55.420.E	Amend as follows: E. Stream Enhancement. Stream enhancement not associated with any other development proposal may be allowed if accomplished according to a plan <u>consistent with the most recent version of the multi-agency <i>Stream Habitat Restoration Guidelines</i> (Cramer, 2012 or as revised)</u> 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.	Amendments made to reference the latest scientific design standards (Cramer, 2012).
18.55.420.F	See comment. F. Minor Stream Restoration. A minor stream restoration project for fish habitat enhancement may be allowed if:	Discuss with City: Unclear what the purpose of this provision is. Appears to be a variation on E (Stream Enhancement), but does not specifically require an engineer? For some activities, that would likely be okay, but placement of some materials in the stream, such as grade controls, should include an engineer. Is this provision intended to link with WDFW's streamlining permit process?
18.55.430 Performance standards – Mitigation requirements	No amendments unless City requests (see Comment).	Discuss with City: Should mitigation requirements for stream buffers mirror wetland buffer requirements?

3.4 Fish and Wildlife Habitats of Importance

Table 9 details the recommended changes to KMC 18.55 Part 500. The majority of recommended changes are a result of updating references to old wetland and stream classifications or to provide clarification.

TABLE 9
ANALYSIS OF AND RECOMMENDATIONS FOR KENMORE MUNICIPAL CODE CHAPTER 18.55 – FISH
AND WILDLIFE HABITATS OF IMPORTANCE

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
ARTICLE XIII. FISH AND WILDLIFE HABITATS OF IMPORTANCE – DESIGNATION		
18.55.500.A Designation of fish and wildlife habitats of importance.	Amend as follows: A. Fish and wildlife habitats of importance are those habitat areas that <u>serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. In the City, habitats of importance</u> 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, <u>or sensitive</u>; or 2. Heron rookeries or active nesting trees; or 3. Class 4<u>Category I</u> wetlands as defined in these regulations; or 4. Type 4S <u>waters</u> 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). 6. <u>Habitat for species nominated and approved by the City per KMC 18.55.500.C.</u>	The functional portion of the WAC definition of “fish and wildlife habitat conservation area” is added to the designation. Revisions to this provision were also made to update language with revised wetland ratings and stream typing. Language also added to cover any additional habitats designated as fish and wildlife habitats of importance through the nomination process. Discuss with City: • Do you want to keep bald eagle habitat on list, although no longer state or federally listed under the Endangered Species Act? Change to 5 is recommended because of the replacement of WAC 232-12-292 with WAC 220-610-100. The latter WAC was written so that it is only in effect when the species is listed by state or federal government as threatened or endangered.

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
		That is no longer the case. Assuming the City wishes to continue designating bald eagle habitat as an area of importance, it could leave the provision as edited or add a reference to the federal Bald and Golden Eagle Protection Act. - WAC requires consideration of including “Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat” and “Waters of the state” as fish and wildlife habitat conservation areas. Waters of the state are “lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the State of Washington.” - Are there any other fish and wildlife habitats of importance the City would like to add? .
ARTICLE XIV. FISH AND WILDLIFE HABITATS OF IMPORTANCE – REPORT REQUIREMENTS		
18.55.510 Critical areas report	See comment.	From Appendix A <i>Critical Area Report Requirements Appendix A – Critical Areas Ordinance – KMC 18.55</i>, remove “priority species, or endangered, threatened, sensitive, or candidate species” from II.4.C because priority, sensitive, and candidate <i>species</i> are not designated as fish and wildlife habitats of importance and therefore should not be included in report. The <i>habitat</i> of threatened and endangered species is a fish and wildlife habitat of local importance, but the species itself is not.

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
ARTICLE XV. FISH AND WILDLIFE HABITATS OF IMPORTANCE – PERFORMANCE STANDARDS		
18.55.520.A	Amend as follows: 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 <u>are encouraged to</u> 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: e. <u>Discussion of how the project complies with published Washington Department of Fish and Wildlife and Washington Department of Natural Resources management standards for the species' habitat, if available.</u> 3. <u>The applicant may combine a habitat management plan with any studies required by other laws and regulations (e.g. a Biological Assessment or Biological Evaluation).</u>	Amended to remove the word “critical” of “critical species.” “Critical species” is not defined in the code nor is it a designation of species listed. The word critical adds confusion to the code, because it indicates that there could be species listed as threatened or endangered that are not critical. Modified 18.55.520.A.1, because it codifies responsibilities to a state agency to which it appears not to have agreed (unless the City has a MOU with WDFW?). Other technical documents prepared for other regulating agencies (e.g., Biological Assessment or Biological Evaluation) could contain the same information as habitat management plans (HMP). If an applicant has to prepare a technical document for another regulating agency and it contains all of the information required in an HMP, then the City should accept that report in lieu of an HMP. Discuss with City: How does a critical area report for fish and wildlife habitats of importance really differ from an HMP? After reviewing requirements for both, they appear to be essentially the same requirements. Unlike the other CARs, however, the HMP contents are included in code. This section could be relocated to 18.55.510.

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
18.55.520.B	Suggest revising as shown: 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. <u>Fish habitat areas of importance may be altered only when necessary to install water-dependent developments that are mitigated consistent with this chapter and the SMP, when applicable.</u> 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 <u>and the SMP, when applicable.</u>	Staff noted that this provision is not clear, particularly with respect to in-water structures in Lake Washington or the Sammamish River.
18.55.520.B-G	No amendments to C-G. See note.	Discuss with City: Suggest reordering B-G, so that buffers (G) becomes (B). We recommend this so that 18.55.520 has parallel structure with 18.55.320 and 18.55.420, both of which discuss buffers before mitigation.
18.55.530.A	Delete 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 (KMC 16), development also must meet the use and development requirements of the Kenmore shoreline master program (KMC 16.45). 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	The language in A.1 and A.2 is essentially redundant with 18.55.510 and -.520. Unless it is City practice to require direct engagement with WDFW and federal agencies when applicants propose developments within <i>buffers</i> of areas containing listed species (which in Kenmore would be the lake, river, and streams), that requirement should be removed. Any project within listed species habitats would already require permits from WDFW and federal agency (the U.S. Army Corps of Engineers). 18.55.530.A.3 - bald eagles are no longer state or federally listed as endangered,

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
	buffer shall not occur prior to consultation with the Washington 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.	threatened, or sensitive (WDFW, 2018); therefore, removed from 18.55.530.A.
18.55.530.B.1	Amend as follows: 1. A buffer equal to the distance of a 900-foot <u>656-foot</u> 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.	Amend 900-foot buffer to 656-foot buffer per Azerrad (2012) recommended buffer for suburban/rural settings, like Kenmore.
18.55.530.C	Amend as follows: C. <u>Listed</u> Anadromous Fish 1. All activities, uses, and alterations proposed to be located in waterbodies used by <u>listed</u> anadromous fish or in areas that affect such waterbodies 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. <u>Applicant must demonstrate that a</u> An alternative alignment or location for the activity is not feasible;	Discuss with City: Because the City has chosen not to list anadromous fish habitat or state priority species habitats more broadly as a “fish and wildlife habitat of local importance,” this section seems out of place unless specifically modified to focus only on listed species. There are a number of unlisted anadromous fish. If the City would like to demonstrate that it is providing special consideration to anadromous fish (as required by RCW 36.70A.172), then expanding the list of habitats of importance would be one mechanism.

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
	c. The activity is designed so that it will provide an overall improvement in the functions or values of the listed fish habitat or other critical areas; and d. Any impacts to the functions or values of the <u>listed fish</u> habitat conservation area are mitigated in accordance with an approved critical areas report. 2. Structures that prevent the migration of <u>listed</u> salmonids shall not be allowed in the portion of waterbodies currently or historically used by <u>listed</u> 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.	
18.55.530.D	New section could be added after discussion with City: <u>Bald eagle habitat shall be protected pursuant to the federal Bald and Golden Eagle Protection Act and consistent with the National Bald Eagle Management Guidelines. 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 660 feet of an active nest. Approval of the activity shall not occur prior to approval of the habitat management plan by the City.</u>	Discuss with the City: Add this new section if City wants to keep bald eagle habitat as a fish and wildlife habitat of importance. WAC 232-12-292 has been re-codified as WAC 220-610-100. The latter WAC was written so that it is only in effect when the species is listed by state or federal government as threatened or endangered. That is no longer the case. Assuming the City wishes to continue designating bald eagle habitat as an area of importance, the federal Bald and Golden Eagle Protection Act is the most current reference. However, WDFW no longer maps the current locations of bald eagle nests, so consistent implementation of this provision may be difficult. Further, bald eagles in Kenmore and Lake Washington sub-basin more generally are fairly well adapted to typical urban disturbances.

3.5 Geologically Hazardous Areas

The City of Kenmore contains several geologic hazards that need to be addressed in the construction of structures, residential development, and the building of infrastructure. Code provisions for such potential hazards are necessary to protect public health and safety and to reduce the potential for property damage. Landslide hazards abound on the steep slopes of the lakefronts and creek slopes left by the last glaciers to inhabit the Puget Lowland and by the diverse geologic layers in the slopes. Such hazards are identifiable with LiDAR technology and geologic investigation and can be mitigated in many cases by prudent siting and construction.

Erosion hazards are present throughout much of the City owing to the silty/clayey soils at the ground surface and ubiquitous sloping ground. This hazard is commonly mitigated by the design and installation of erosion control measures.

Seismic hazards include ground shaking, slope failure, ground settlement, soil liquefaction, lateral spreading, surface faulting, seiches, and tsunamis. All or a combination of them are the result of Kenmore's position between the Seattle Fault Zone and the Southern Whidbey Island Fault Zone, and the Cascadia Subduction Zone offshore of Washington.

TABLE 10
ANALYSIS OF AND RECOMMENDATIONS FOR KENMORE MUNICIPAL CODE CHAPTER 18.55 – GEOLOGICALLY HAZARDOUS AREAS

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
ARTICLE XVI. GEOLOGICALLY HAZARDOUS AREAS – DESIGNATION		
18.55.610 Designation of geologically hazardous areas	Line 1: change sliding to landsliding. Line 2: delete “of significant hazard” and add “hazard” before “areas.”	Clearer intent.
18.55.610.C	Delete “mass wasting” and “rock falls”	Mass wasting is far too general a term, and there is no bedrock in Kenmore.
18.55.620.B.1.b	Add King County to list of map producers	King County's 2017 map of unstable slopes is relevant.

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
18.55.620.B.3	Reword sentence as shown: 3. Areas that have shown movement during the <u>post-glacial period Holocene epoch</u> (from 160,000 years ago to the present) or that are underlain or covered by mass wastage debris of that epoch <u>time period, as shown in U.S. Geological Survey, Washington Department of Natural Resources, or King County maps.</u>	More precise geologic terminology and reflects new mapping resources.
18.55.620.B.4	Possibly delete this section	This pertains to bedrock and there is none in Kenmore.
18.55.620.C	Add the following: Seismic hazard areas include liquefaction-prone areas and a strand of the Southern Whidbey Island Fault Zone known as the Kenmore Lineament as designated by the Washington Department of Natural Resources.	Available information that can be put on a map, based on BAS.
18.55.620.C	Add tsunami to the list	This is a real potential hazard at the northern end of Lake Washington, but studies have not been done to show the potential inundation in the City.
18.55.620.C	Revise last paragraph, as follows: Settlement, and soil liquefaction, and lateral spreading conditions occur in areas underlain by cohesionless, loose, or soft-saturated soils of low density, typically in association with a shallow ground water table . <u>Tsunami or seiche waves triggered by an earthquake or seismically induced landslides can inundate shoreline-adjacent land.</u>	Need to include new terms in KMC 18.20 (Definitions) to accommodate the types of potential geologic hazards not previously in the code. Need to consider how to represent tsunami/seiches.
ARTICLE XVII. GEOLOGICALLY HAZARDOUS AREAS – REPORT REQUIREMENTS		
18.55.630 Critical areas report	See comment.	Recommend a review of the City's geohazard areas report guidelines.
ARTICLE XVIII. GEOLOGICALLY HAZARDOUS AREAS – PERFORMANCE STANDARDS		
18.55.640.A.4	Reword as follows: Are certified as <u>determined to be safe as sited and</u> designed and under anticipated conditions by a qualified civil engineer, or geologist, or engineering geologist, as appropriate, licensed in the State of Washington.	Engineers and geologists do not certify anything. Need to take into account that engineering geologists are also capable and allowed under the law to perform certain geologic functions.
18.55.640.B	Insert at the end of the existing sentence:	Must overcome the hazard by structural or ground engineering mitigation.

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
	If so sited, the design shall be adequate to mitigate the effects of the hazard.	
18.650.A.1	Add: BMPs for sediment and erosion control shall be implemented in such area.	BMPs still need to be enforced in erosion-prone areas.
18.55.650.A.2.b	Modify as follows: b. Buffer Reduction. The buffer may be reduced to a minimum of 40 25 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 through slope stability improvements or structural means.	More in line with other jurisdictions; professional experience at Woodway that landslides can impact the top or toe areas farther than thought 20 years ago.
18.55.650.A.3	Modify as follows: 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 demonstrates 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. <u>At its discretion, the City may require applicants to fund a third-party review by a qualified professional selected by the City, and shall make substantive changes to the proposed alteration or provide additional analysis as directed by the third-party reviewer.</u>	Engineers do not certify anything. Discuss with City: A provision is suggested to enable the City to obtain additional technical expert opinion of applicant-provided documents.
18.55.650.A.6	Add the following: <u>An exception may be granted for emergency repair of structures or landslides when waiting for the clearing window will (1) create a life-threatening risk, (2) do additional damage to the structure, or (3) damage adjacent property or structures.</u>	Mid-winter emergencies sometimes need to be dealt with immediately.
18.55.650.A.8.a	Add landslide areas to this sentence.	It is not suitable to discharge if there are landslide areas downslope.
18.55.650.A.9.b	Add the following:	Common sense.

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
	<u>Such roads and utilities will be designed by qualified professionals to resist ground movement and erosion.</u>	
18.55.650.A.11	Add the following: <u>Previously graded slopes meeting the criteria of steep or landslide hazard that were not permitted or were created prior to the advent of these critical areas regulations (date) will be treated as steep slopes or landslide hazards.</u>	This suggestion is a response to a staff question; language adapted from Seattle DPD code.
18.55.650.B	Add to the end of the sentence: <u>and the International Building Code.</u>	For structural integrity of the structures located in the seismic zone.

3.6 Flood Hazard Areas

[under development, future Appendix C]

3.7 Critical Aquifer Recharge Areas

As defined in WAC 365-190-030, “‘Critical aquifer recharge areas’ are areas with a critical recharging effect on aquifers used for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.” The City receives its drinking water supply from the South Fork Tolt River Reservoir through the Northshore Utility District. Groundwater is not utilized as a drinking water source for the City, although some domestic exempt water wells are reportedly operating in the northern portion of the City. The City has not designated any critical aquifer recharge areas (CARAs) within the City limits. However, the City understands the importance of groundwater and will assess proposed projects on a case-by-case basis to determine potential risks to groundwater within the City limits.

3.7.1 Review of Neighboring Community Codes

To better understand groundwater resources in use in the area around Kenmore, groundwater-related information for neighboring communities was reviewed. This included CARA regulations for the City of Bothell, City of Brier, City of Lake Forest Park, City of Kirkland, and unincorporated Snohomish County. Information regarding each city’s groundwater use and related regulations is discussed in the following sections.

3.7.1.1 City of Bothell

The City of Bothell obtains their drinking water through Seattle Public Utilities from the South Fork Tolt River Reservoir and Cedar River Reservoir and does not currently use groundwater as a source of drinking water. The City of Bothell discusses the importance of groundwater and preventing groundwater contamination in Bothell Municipal Code (BMC) 13.13.030 Critical aquifer recharge areas. No critical aquifer recharge areas are defined within the City of Bothell boundaries. BMC 13.13.030 explains that, depending on the location and contamination potential of a proposed project, the City of Bothell may require additional investigation.

3.7.1.2 City of Brier

The City of Brier is serviced by the Alderwood Water District (AWD). The AWD obtains its drinking water from the Spada Reservoir and does not use groundwater as a source of drinking water. However, the AWD maintains a flowing artesian well that is open to the public to obtain untreated well water at the source. The flowing artesian well is north of the City of Brier and over five miles northwest of the City of Kenmore’s northern boundary.

Chapter 18.30 of the Brier Municipal Code provides information regarding CARAs, including CARA designation, allowed activities, additional report requirements, performance standards, and prohibited uses. No information or references regarding the location or existence of CARAs within the City of Brier was found in their municipal code. However, wellhead protection areas (WHPAs) from the City of Lake Forest Park, adjacent to the City of Brier's southern boundary, extend northward into the City of Brier and are discussed in further detail in subsequent sections.

3.7.1.3 City of Lake Forest Park

Three separate water utility districts operate within the City of Lake Forest boundary (Mundall Engineering & Consulting, 2016) and include

- Lake Forest Park Water District
- Northshore Utility District
- North City Water District

The Northshore Utility District (NUD) provides water service in the northeast portion of Lake Forest Park and extends through the City of Kenmore. The NUD water is obtained from the South Fork Tolt River Reservoir. No groundwater is utilized by NUD.

The Lake Forest Park Water District (LFPWD) operates in the southeast portion of the City of Lake Forest Park. Drinking water for the LFPWD is obtained through a combination of groundwater (McKinnon Creek and Horizon View Wellfields) and connections to the South Fork Tolt River Reservoir.

The City of Lake Forest Park Municipal Code (LFPMC) 16.16.410 designates CARAs as those areas within the 10-year time of travel zones for Group A public water supply wells. LFPMC 16.16.050 Maps and Study – Adoption references the LFPWD's *Map of Critical Aquifer Recharge Area Susceptibility Zones* dated 2017. A version of the susceptibility map was included in the LFPWD *Comprehensive Water System Plan 2015* (Mundall Engineering & Consulting, 2016), but a 2017 version of the map was not found. LFPMC 16.16.420 provides development standards that include the potential need for a hydrogeologic assessment prior to approval of a proposed project.

The LFPWD *Comprehensive Water System Plan 2015* (Mundall Engineering & Consulting, 2016) includes a section on aquifer susceptibility that provides designations for the wells within the wellfields. The McKinnon Creek Wellfield has both shallow and deep wells that are rated as highly susceptible and moderately susceptible, respectively. The McKinnon

Creek Wellfield is located about 0.3 mile from the City of Kenmore boundary. The Horizon View Wellfield has deep wells rated as low susceptibility and is located about 0.45 mile from the City of Kenmore boundary.

The *Lake Forest Park Water District Revised Draft Critical Aquifer Recharge Area Delineation* report (AESI, 2016) indicates that the McKinnon Creek Wellfield obtains groundwater for its shallow wells from the Qva Aquifer and groundwater for the deep wells comes from the LFP Aquifer; the Horizon View Wellfield obtains groundwater for its wells from the LFP Aquifer. WHPAs (1-, 5-, and 10-year time of travel) for wells in the McKinnon Creek and Horizon View Wellfields are provided as figures in the LFPWD CARA Delineation report and extend northward within the City of Lake Forest Park and, in the case of the Horizon View Wellfield WHPAs, extend out of the City of Lake Forest Park and into the City of Brier; the WHPAs do not extend into the City of Kenmore.

The North City Water District (NCWD) provides water service in the western portion of Lake Forest Park. The NCWD water is obtained from the South Fork Tolt River Reservoir and Cedar River Reservoir. No groundwater is utilized by NCWD.

3.7.1.4 City of Kirkland

The City of Kirkland obtains its drinking water through Seattle Public Utilities, NUD, and Woodinville Water District. These districts are supplied by the South Fork Tolt River Reservoir and Cedar River Reservoir and do not use groundwater as a source of drinking water.

The City's code does not designate CARAs or contain other groundwater regulations. Scattered references to groundwater are found in other sections of the critical areas regulations, but only as it has the potential to affect or be affected by critical areas such as wetlands and other surface waterbodies.

3.7.1.5 Unincorporated Snohomish County

The area of unincorporated Snohomish County that shares a boundary with the north side of the City of Kenmore is serviced by the AWD. The AWD obtains its drinking water from the Spada Reservoir and does not use treated groundwater as a source of drinking water. However, the AWD maintains a flowing artesian well as mentioned previously.

Snohomish County Unified Development Code Chapter 30.62C provides information regarding CARAs. Topics covered in this chapter include general information, process requirements, designation and classification, and standards and requirements.

A map designating aquifer recharge/wellhead protection (Snohomish County, 2007) indicates low to moderate aquifer sensitivity at the northern boundary of the City of Kenmore and extending more than 3 miles north from the boundary. A map of the Qva Aquifer (AESI, 2016) indicates that groundwater at the boundary between Snohomish County and the City of Kenmore generally flows to the south.

3.7.1.6 Conclusions

Groundwater is not used as a source of drinking water for the City of Kenmore or neighboring communities with the exception of Lake Forest Park. Lake Forest Park's WHPAs do not extend into the City of Kenmore, which suggests that activities within the City of Kenmore will not affect groundwater that recharges the Lake Forest Park wellfields. The City of Bothell, City of Brier, and City of Kirkland do not use groundwater as a drinking water source and no WHPAs or CARAs are designated. Available hydrogeologic maps of the area were reviewed to determine if activities in the City of Kenmore could affect groundwater resources in neighboring communities. A map indicating groundwater flow direction and gradient (AESI, 2016) indicates that the City of Kenmore is either downgradient or crossgradient at the boundaries with the City of Brier and the City of Bothell.

Although a groundwater flow map was not found for the boundary between the City of Kenmore and the City of Kirkland, the general topography of the area suggests that groundwater in any shallow aquifers, that would be most susceptible to contamination, flows northward toward the Sammamish River, and activities within the City of Kenmore boundaries are unlikely to affect groundwater quality within the City of Kirkland.

Unincorporated Snohomish County (County), within 3 miles of the City of Kenmore, does not use groundwater as a drinking water source and no WHPAs or CARAs are designated. A groundwater flow map (AESI, 2016) shows groundwater flowing generally to the south from Snohomish County to the City of Kenmore. This flow direction would indicate that the City of Kenmore is downgradient of Snohomish County, and activities within the City of Kenmore boundaries would not affect groundwater quality in Snohomish County.

Based on existing information, the City of Kenmore does not use groundwater as a drinking water source and groundwater quality in neighboring communities would not be affected by activities within the City of Kenmore. A Critical Aquifer Recharge Area study and designation is not required.

3.7.2 Recommendations

Although the City of Kenmore does not use groundwater as a drinking water source, the City would benefit from including a groundwater resources section within its Municipal Code. The City has a responsibility to protect groundwater quality as mandated under Washington State water quality regulations. Many activities under the City's jurisdiction, such as construction projects, land use, and stormwater management, could impact groundwater quality.

The groundwater resources section should discuss the importance of groundwater as a potential drinking water source for future generations and its potential to affect surface waterbodies such as the Sammamish River and Lake Washington in areas where groundwater is in communication with surface water. In addition, this section should explain that the City will assess proposed projects within the City limits to ensure no negative effects to groundwater will occur within the City limits or into neighboring communities. If a proposed project is determined to be a potential risk to groundwater, the City should reserve the right to require additional assessment and/or prevent the project from occurring.

3.8 On-Site and Off-Site Density Transfer

Because the City calculates allowable units based on gross acres, there is effectively an on-site density transfer allowed provided lot standards can be met. Lot sizes in the R-1 zone are small at 2,500 square feet minimum to promote clustering. Clustering is required in the R-1 zone on no greater than 50 percent of the site.

Lot sizes in the R-6 zone are 5,400 square feet minimum. Lot sizes in the R-4 zone are 7,200 square feet minimum. Some lots may be smaller where there are critical area or topographic constraints:

For properties with critical areas or topographic constraints, up to 20 percent of the number of lots in a subdivision or a short subdivision of more than four lots, and one of the lots in a short plat of four lots or less, may contain an area less than the prescribed minimum for this zoning district. In no case shall any lots be created which contain an area more than 10 percent less than the prescribed minimum for this zoning district. These smaller lots shall be located so as to have the least impact on surrounding properties in terms of consistency of street frontages and privacy of abutting properties.

Split zone properties can transfer densities (e.g., R-1 to R-8) per KMC 18.30.100.

Due to greater interest in development of geologically hazardous areas in recent years, the City is considering whether to adjust density or subdivision standards in areas with geologic hazards.

The cities of Woodinville and Chelan each have regulations that may contain options suitable for adaptation in Kenmore (see Appendix D for those cities' regulations).

- The City of Woodinville allows a site with greater than 50 percent critical area constraints to transfer up to 50 percent of the allowed density in the constrained area to the unconstrained area. The City varies minimum lot sizes in unconstrained areas to be lower to allow for some efficiencies when density is transferred at either 100 percent or less.
- The City of Chelan establishes clearing limits on steep slopes in erosion hazard areas. While clearing limits are not the same as density limits, it could reduce the area altered in these areas and effectively limit density depending on the configuration of developable areas and necessary access.
- Marin County, California has a sliding scale minimum lot size that increases as slope increases.

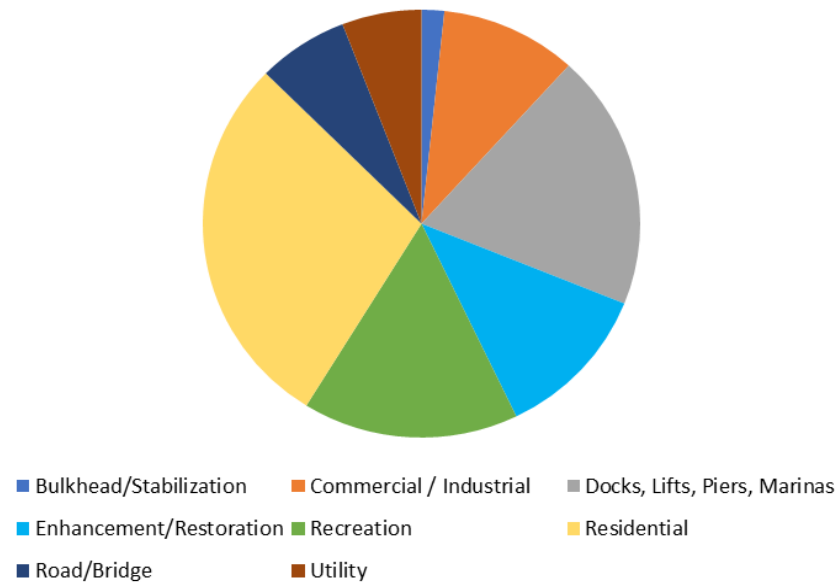
The City of Kenmore allows off-site density transfers in KMC 18.80.090. If the City restricts how much density can be transferred on-site, it could more clearly incentivize off-site density transfer for sites that are highly constrained to more developable sites. The City includes off-site density transfer rules in KMC 18.80.090. Some of the cross-references in KMC 18.80.090.B do not provide the direction intended. For example, Chapter 18.30 does not contain text addressing how sending areas are declared unbuildable due to critical areas, and Chapter 18.55 does not identify how to determine a density credit. For reference, the text of KMC 18.80.090 is included in Appendix E.

Determining appropriate densities and subdivision standards in areas with geologic hazards and potential interest in density transfers to receiving areas would be potential topics for stakeholder outreach.

4.0 SHORELINE MANAGEMENT TITLE 16, DIVISION 1

The entire code was reviewed, but special attention was paid to topics that were raised by staff, public comment, and direct experience with permitting shoreline projects in the City. Table 11 combined with Appendix B provide both required and recommended changes to the Shoreline Master Program. Exhibit 1 shows the types of activities that required either a shoreline permit or shoreline exemption from 2007 through April 2018.

EXHIBIT 1
ACTIVITY DISTRIBUTION OF SHORELINE PERMITS, 2007 – APRIL 2018



According to the City's permit history, there have been five Shoreline Conditional Use Permits processed, three of which were for public over-water structures, one for a bridge replacement, and one for an after-the-fact residential dock permit. There were also efforts made to ensure that provisions in the SMP are consistent with and either support or are supported by the critical areas regulations. As a result, many of the recommendations included in the table relate to buffers and buffer management, park and trail development, and over-water structures.

TABLE 11
ANALYSIS OF AND RECOMMENDATIONS FOR KENMORE MUNICIPAL CODE TITLE 16,
DIVISION 1: SHORELINE MANAGEMENT

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
CHAPTER 16.05: SHORELINE MANAGEMENT CODE – PURPOSE AND SCOPE		
16.05.030.C	Amend as follows: C. Development proposed on property <u>in</u> or adjacent to waterbodies 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 sub-element.	Clarifies that adjacency is not the only trigger for a shoreline sub-element consistency analysis.
16.05.060 Relationship to other Kenmore programs.	Delete B.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).	The exemptions included in the City's critical areas regulations are inconsistent with the SMA, which has its own specific list of exemptions that can be used in shoreline jurisdiction. See Department of Ecology's Shoreline Master Program Handbook, https://fortress.wa.gov/ecy/publications/parts/1106010part18.pdf
CHAPTER 16.10: DEFINITIONS		
16.10.035	Replace 16.10.035 definition of Accessory Use with the definition used in KMC 18.20.035 (shown below with the underlined modification): “Accessory use” means a use that is incidental to a principal use. <u>“Accessory use” means a use typically subordinate in size to the principal use; that would not contribute significantly to traffic generation, noise, or nuisance; and that supports the primary use</u>	A City interpretation related to whether a seaplane qualified as an accessory residential use indicates that a more detailed definition within the SMP could be helpful.

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Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
	<u>operation without displacing it. An accessory use may appear as an otherwise permitted, conditional or prohibited use in the use allowances for a given zone designation. Accessory uses are typically located upon the same lot occupied by a principal use. Examples of accessory uses include: equipment rental (bikes or skis) at a retail bike and ski shop, a secure facility required at an airport, and boat parking at a marina.</u>	
new	Suggest adding the following definition: <u>“Average grade level” means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure: In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. The “natural or existing topography” means the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure;</u>	WAC 173-27-030(3) and (11) The City’s use of “average finished grade” to measure height per KMC 16.10.260 is in conflict with the WAC.
new	Suggest adding the following definition: <u>“Boating facilities” means developments and uses that support access to shoreline waters for purposes of boating, including marinas; community docks serving more than four single-family residences or multi-family units; public piers and docks; and community, commercial or public boat launch facilities.</u>	Based on WAC 173-26-241(3)(c).
16.10.130 Development	Suggest including the definition from RCW 90.58.030 rather than referring the public to the RCW.	This is an important definition that is unlikely to change.
new	Suggest adding the following definition: <u>“Ecosystem-wide processes” means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific</u>	WAC 173-26-020(14)

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
	<u>shoreline ecosystem and determine both the types of habitat and the associated ecological functions.</u>	
new	Suggest adding the following definition: <u>“Feasible” means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:</u> <u>A. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;</u> <u>B. The action provides a reasonable likelihood of achieving its intended purpose; and</u> <u>C. The action does not physically preclude achieving the project's primary intended legal use.</u> <u>In cases where this title requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.</u> <u>In determining an action's infeasibility, the department may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.</u>	WAC 173-26-020(15) There are several regulations that require an analysis of “feasibility” – providing a clear definition would assist applicants and staff.
16.10.185 Fish and wildlife habitat area of importance	Amend as follows: C. Class 4 <u>Category I</u> wetlands as defined in KMC 18.55.300; or D. Type 4 S <u>waters streams</u> 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).	Changes to C and D are recommended for consistency with changes recommended elsewhere in this report to the classifications of streams and wetlands. Change to E is recommended because of the replacement of WAC 232-12-292 with WAC 220-610-100. The latter WAC was written so that it is only in effect when the species is listed by state or federal government as threatened or endangered. That is no longer the case. Assuming the City wishes to continue designating bald eagle habitat as an area of importance,

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Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
		it could leave the provision as edited or add a reference to the federal Bald and Golden Eagle Protection Act.
16.10.200 Floating home	Suggest replacing this definition with WAC 173-26-020(17): “Floating home” means a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed.	WAC 173-26-020(17)
16.10.210 Floodplain	Suggest replacing this definition with WAC 173-26-020(19): “Floodplain” is synonymous with one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation, maps, or a reasonable method which meets the objectives of the act.	WAC 173-26-020(19)
new	Suggest adding the following definition: “Geotechnical report” or “geotechnical analysis” means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.	WAC 173-26-020(21)

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
16.10.260 Height	Suggest replacing the current definition with WAC 173-27-030(9) as shown below: “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. <u>is measured from average grade level to the highest point of a structure: Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: Provided further, That temporary construction equipment is excluded in this calculation.</u>	The difference between “average finished grade” in the City’s current definition and the WAC requirement to measure height from the “average grade level,” which is the original grade, can be quite significant, particularly from the perspective of properties upland of the final structure which could have substantial view impacts.
16.10.350 Ordinary high water mark	Suggest including the definition from RCW 90.58.030 rather than referring the public to the RCW.	This is an important definition that is unlikely to change.
Various new and replacement definitions	Suggest replacing or supplementing water access structure terms for consistency as follows: 16.10.150 “Dock” means <u>a landing and moorage facility for watercraft that abuts the shoreline. On the Sammamish River, a dock is the term which collectively applies to a ramp extending from the shoreline to a float all platform structures or anchored devices in or floating upon</u> 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. “Ell” means a terminal pier section oriented perpendicular to the pier walkway. [new]	There are a variety of terms used in the regulations which are inconsistent with how they are defined – they are linked to use (e.g., public/residential vs. commercial), rather than the actual structure. Further, the differences between a typical Sammamish River design and a Lake Washington design make it more critical to use clear terms and use them consistently.

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference																								
	“Finger pier” means a narrow pier section projecting from the pier walkway, typically perpendicular to the walkway and located landward of an ell in order to form the nearshore side of a boatslip. [new] 16.10.190 “Float” means a structure or device which <u>floats on the surface of the water</u> 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. 16.10.360 “Pier” means an over-water, fixed, pile-supported structure that does not float on the water’s surface and provides a location for boat moorage or other water-oriented or water-dependent use any platform structure, fill, or anchored device in or floating upon water bodies to provide moorage for watercraft engaged in commerce.																									
CHAPTER 16.50: GENERAL SHORELINE USES																										
16.50.020 Interpretation of shoreline use table	Address unlisted uses and how City may interpret in such cases.	Per 173-27-040(1)(b), a development or use that is listed as a conditional use pursuant to the local master program or is an unlisted use, must obtain a conditional use permit even though the development or use does not require a substantial development permit.																								
16.55.030.A Shoreline modifications table and conditions	See comment.	Discuss with City: In general, there is opportunity and benefit to further subdividing the different categories of uses and modifications to provide a little more specificity, without abandoning flexibility. As suggested by staff, the City’s defined zoning uses may provide some framework.																								
16.50.030.A	See comment. <table><tr><td>KEY</td><td></td><td></td><td></td><td></td><td></td></tr><tr><td>P – Permitted Use</td><td></td><td></td><td></td><td></td><td></td></tr><tr><td>C – Shoreline Conditional Use</td><td>DW</td><td>SR</td><td>UC</td><td>N</td><td>A</td></tr><tr><td>Park/Recreation</td><td></td><td></td><td></td><td></td><td></td></tr></table>	KEY						P – Permitted Use						C – Shoreline Conditional Use	DW	SR	UC	N	A	Park/Recreation						The items considered non-water-oriented may be water-oriented if they are open to the public or allow for a substantial number of people to use them. Picnic tables and outdoor exercise circuit equipment are often part of linear parks/trails. Seems overly specific to limit it unless the intent is to allow small private facilities and not restrict them from the public facilities.
KEY																										
P – Permitted Use																										
C – Shoreline Conditional Use	DW	SR	UC	N	A																					
Park/Recreation																										

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Section of the Kenmore Municipal Code	Recommendation						Comment / Science Reference
	Recreational/cultural	P5	P6	P6	P7	C5	
	5. In Downtown Waterfront and Aquatic Environments, water-oriented recreational uses including parks and public access trails and facilities may be allowed <u>together with accessory recreation facilities that provide water enjoyment for substantial numbers of persons</u> ; 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.						

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference						
16.50.030.A	Suggest modifying as shown.	Repairs, replacement, and expansions are more common than new features, and should not require a conditional use permit.						
	<table><tr><td>KEY P – Permitted Use C – Shoreline Conditional Use</td><td>DW</td><td>SR</td><td>UC</td><td>N</td><td>A</td></tr></table>		KEY P – Permitted Use C – Shoreline Conditional Use	DW	SR	UC	N	A
	KEY P – Permitted Use C – Shoreline Conditional Use		DW	SR	UC	N	A	
	Regional Land Uses							
	<u>New highway and street, except for in-water uses</u>		<u>C11</u>	<u>C11</u>	<u>C11</u>	<u>C11</u>	<u>C11</u>	
<u>Repair, replacement and expansion of existing highway and street</u>	<u>P11</u>	<u>P11</u>	<u>P11</u>	<u>P11</u>	<u>P11</u>			
	11. New <u>and expanded</u> 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.							
16.50.030 Shoreline use table and conditions	Suggest adding a line for “Boating Facilities” that refers to KMC 16.55.030. Remove marina and boat launch items from “Park/Recreation” category, and relocate to KMC 16.55.030. Remove the associated table notes from KMC 16.50.030.B.	For ease of use by applicants and staff, it would be helpful to have all of the dock/launch design standards in a single location to minimize redundancy. These types of in- and over-water structures have a lot of common standards.						

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
16.50.050 Public boat launching facilities and marinas	Suggest renaming for clarity as “Boating Facilities Use.” Add a reference to KMC 16.55.050 for specific standards governing the physical modifications associated with this use.	This chapter is for shoreline uses, and this particular use in the SMP Guidelines (WAC 173-26-241.3.c) is called Boating Facilities.
16.50.060	Add flexibility: - Allow a public access plan as an alternative to a site-by-site requirement. As part of the City’s Walkways and Waterways initiative or a future Parks, Recreation, and Open Space Plan, the city could develop a public access plan to provide flexibility. The City could allow a private entity to develop one according to WAC standards. - Allow off-site public access or by payment of a fee in lieu. - Clarify when visual access is allowed instead of physical access.	Per SMP Handbook, Chapter 9, Shoreline Public Access, the City can provide for flexibility and unique conditions, that may be important in an urban environment with variable conditions.
16.50.030 A. Shoreline Use Table, and 16.50.070	Allow Recreation Management Plans similar to the allowance for Recreational/cultural.	Along trails and within parks there will be a combination of exempt and substantial development permits needed over time for park and trail maintenance and rehabilitation that can be addressed comprehensively in a multi-year management plan. These management plans could be developed with new park master plans created under the Walkways and Waterways program. Recreation management plans are included in example SMPs for City of Chelan and City of Yakima. See example from Chelan in Appendix E.
16.50.030 A. Shoreline Use Table, 16.50.080, and 16.50.085	Under Regional Land Uses and Utilities: allow multi-year maintenance plans similar to the allowances for utilities and streets.	Road and utility maintenance activities may be appropriate to consider over a multi-year span. WSDOT has developed a programmatic set of road maintenance standards designed to minimize environmental impacts, as has King County. The Cities of Yakima and Chelan allow such management plans in their SMPs.

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CHAPTER 16.55: SHORELINE MODIFICATIONS																																
16.55.020 Interpretation of shoreline modifications table and conditions	Suggest editing as follows: The shoreline environment is located on the vertical column and the specific <u>modification use</u> is located on the horizontal row of the table. Suggest adding the following: E. If the letter “X” appears in the box at the intersection of the column and the row, the modification is prohibited in that shoreline environment.	Correction of a minor error. Suggested changes to the modifications table under Water Access Structures include prohibition of some modifications in some environments.																														
16.55.030.A Shoreline modifications table and conditions	See comment.	Discuss with City: In general, there is opportunity and benefit to further subdividing the different categories of uses and modifications to provide a little more specificity, without abandoning flexibility. As suggested by staff, the City’s defined zoning uses may provide some framework.																														
16.55.030.A Shoreline modifications table and conditions	Suggest expanding the shoreline modifications table to break down the different types of water access structures. <table><tr><td>KEY <u>X - Prohibited</u></td><td>DW</td><td>SR</td><td>UC</td><td>N</td><td>A</td></tr><tr><td colspan="6"><u>Piers and Docks - Water Access Structures</u></td></tr><tr><td><u>Docks, piers, moorage, buoys, floats or launching facilities</u></td><td>P4</td><td>P4</td><td>C4</td><td>C4</td><td>C4, P4</td></tr><tr><td><u>Dock or Pier – Residential (including community)</u></td><td>P</td><td>P</td><td>C</td><td>X</td><td>4</td></tr><tr><td><u>Dock or Pier – Public</u></td><td>P</td><td>P</td><td>P</td><td>C</td><td>4</td></tr></table>	KEY <u>X - Prohibited</u>	DW	SR	UC	N	A	<u>Piers and Docks - Water Access Structures</u>						<u>Docks, piers, moorage, buoys, floats or launching facilities</u>	P4	P4	C4	C4	C4, P4	<u>Dock or Pier – Residential (including community)</u>	P	P	C	X	4	<u>Dock or Pier – Public</u>	P	P	P	C	4	The intended net effect of the proposed changes to the table is to reduce the number of unnecessary conditional uses, and provide a greater distinction between different modifications which have different degrees of impact and desirability in different designations.
KEY <u>X - Prohibited</u>	DW	SR	UC	N	A																											
<u>Piers and Docks - Water Access Structures</u>																																
<u>Docks, piers, moorage, buoys, floats or launching facilities</u>	P4	P4	C4	C4	C4, P4																											
<u>Dock or Pier – Residential (including community)</u>	P	P	C	X	4																											
<u>Dock or Pier – Public</u>	P	P	P	C	4																											

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Section of the Kenmore Municipal Code	Recommendation						Comment / Science Reference
	<u>Dock or Pier – Commercial</u>	P	X	X	X	4	
	<u>Public or Commercial Boat Launch - nonmotorized</u>	P	X	P	C	4	
	<u>Public or Commercial Boat Launch - motorized</u>	P	X	C	X	4	
	<u>Private Boat Launch</u>	C	C	X	X	4	
	<u>Watercraft Lifts</u>	P	P	X	X	4	
	<u>Other floats and moorage buoys</u>	P	P	P	X	4	
	<u>Minor repair of existing water access structures</u>	P	P	P	P	P	
16.55.030 (B)(4)	In the Aquatic Environment, <u>the modification is subject to the permit required for the adjacent upland environment designation. These facilities are not allowed in Swamp Creek. docks, piers, moorage, buoys, floats and/or launching facilities require conditional use approval, unless located adjacent to a Downtown Waterfront or Shoreline Residential Environment.</u>						Changes made to reflect the altered permit assignment in the modifications table.
16.55.030.A Shoreline modifications table and conditions	Suggest expanding the shoreline modifications table to break down the different types/locations of fill and dredging/dredge disposal.						The intended net effect of the proposed changes to the table is to reduce the number of unnecessary conditional uses, and provide a greater distinction between different modifications which have different degrees of impact and desirability in different designations.
KEY <u>X - Prohibited</u>		DW	SR	UC	N	A	
Fill							

Section of the Kenmore Municipal Code	Recommendation						Comment / Science Reference
	Filling	P5, C5	P5, C5	P5, C5	C5	C5	
	Upland outside of floodplain	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NA</u>	
	Upland inside of floodplain	<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NA</u>	
	In-water restoration	<u>NA</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
	In-water non-restoration	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	
	Grading and dredging						
	Grading, dredging, dredge material disposal	P5, C5	P5, C5	P5, C5	C5	C5	
	Dredging	<u>NA</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
	In-water disposal	<u>NA</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	
	Upland disposal outside of floodplain or channel migration zone	<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>NA</u>	
	Upland disposal inside of floodplain or channel migration zone	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NA</u>	
	16.55.030 (B)(5)	Suggest deleting this provision.					

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
16.55.050 Docks, piers, moorage, buoys, floats or launching facilities.	General note: Suggest retitling this section to “Water Access Structures” which is more encompassing than resorting to a list. General note: In all instances where moorage is separated from buoy by a comma, suggest removing the comma. See Appendix F for proposed comprehensive changes to KMC 16.55.050.	“Moorage” alone is not a modification that requires a permit. Assume the comma is an error. Proposed changes to this section (see Appendix F) include providing separate dock standards for the Sammamish River, which is a unique environment that requires an entirely different design strategy than Lake Washington; adding some clear design standards for non-residential docks and piers; adding some clear standards for boat launches (distinguishing between motorized and nonmotorized); and adding some general guidance on mitigation that applies to all new or expanded structures (not just commercial).
CHAPTER 16.60: VEGETATION CONSERVATION		
16.60.020 Vegetation management within critical areas.	Amend as follows: 16.60.020 Vegetation management within critical areas <u>and buffers</u>. A. Vegetation management standards established in KMC 18.55.150(A)(5) and (E), 18.55.320(F)(5) and (6), <u>18.55.420(B)(5) and (6)</u>, 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	Revisions suggested above to KMC 18.55.320.F.6.b and -.420.B.6.b eliminate the need for B in KMC 16.60.020. A new B could be developed that references ability to implement approved public access plans and recreation maintenance plans.

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
	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.	
16.60.030 Vegetation management within Lake Washington shoreline buffers.	Amend as shown: 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 <u>permitted</u> shoreline restoration or enhancement project, <u>an allowed</u> water-dependent or water-enjoyment use or modification, <u>public access or recreation maintenance plan implementation</u>, or the vegetation removal is otherwise specifically allowed under Chapter 16.50 or 16.55 KMC. <u>Such vegetation clearing must occur only in the minimum shoreline area that is necessary to support the permitted use, and must be mitigated.</u>	Shift A and suggested B into 16.60.020; remove 16.60.030. The need for existing B has been eliminated by making revised A more broadly applicable. Reference ability to implement approved public access plans and recreation maintenance plans.

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference																				
	B. <u>Implementation of approved public access plans and recreation maintenance plans is allowed.</u> 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 use.																					
CHAPTER 16.65: SHORELINE DENSITY AND DIMENSIONS																						
16.65.010 Interpretation of shoreline density and dimensions table	Delete this entire section.	This section is now redundant with 18.55.330.G, which is adopted into this SMP by reference.																				
	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-																					
	<table><tr><th>Category and Type of Wetland</th><th>Creation or Reestablishment (C/R)</th><th>Creation (C) or Reestablishment (R) plus Enhancement (E)</th><th>Enhancement (E) Only</th></tr><tr><td>Class 1</td><td>3:1</td><td>1:1 C/R plus 6:1 E</td><td>Not Allowed</td></tr><tr><td>Class 1 (Mature Forested)</td><td>6:1</td><td>1:1 C/R plus 20:1 E</td><td>Not Allowed</td></tr><tr><td>Class 2</td><td>2:1</td><td>1:1 C/R plus 4:1 E</td><td>Not Allowed</td></tr><tr><td>Class 3</td><td>1.5:1</td><td>1:1 C/R plus 2:1 E</td><td>6:1</td></tr></table>		Category and Type of Wetland	Creation or Reestablishment (C/R)	Creation (C) or Reestablishment (R) plus Enhancement (E)	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
	Category and Type of Wetland		Creation or Reestablishment (C/R)	Creation (C) or Reestablishment (R) plus Enhancement (E)	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																			

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference																																																												
16.65.020.A	Suggest adding a new section for Sammamish River and Swamp Creek buffers: <table><tr><th>Use</th><th>DW</th><th>SR</th><th>UC</th><th>N</th><th>A</th></tr><tr><td colspan="6">Shoreline Buffers from OHWM on Sammamish River</td></tr><tr><td><u>Residential development – R12 and denser</u></td><td><u>Z</u></td><td><u>20 (2)</u></td><td><u>150</u></td><td><u>150</u></td><td><u>Z</u></td></tr><tr><td><u>Residential development – R6 and less dense</u></td><td><u>Z</u></td><td><u>35 (2)</u></td><td><u>150</u></td><td><u>150</u></td><td><u>Z</u></td></tr><tr><td><u>Water-oriented parks and recreation</u></td><td><u>Z (4)</u></td><td><u>50 (4)</u></td><td><u>50 (4)</u></td><td><u>50 (4)</u></td><td><u>0</u></td></tr><tr><td><u>Nonwater-oriented parks and recreation</u></td><td><u>Z</u></td><td><u>75</u></td><td><u>100</u></td><td><u>150</u></td><td><u>Z</u></td></tr><tr><td><u>All other uses</u></td><td><u>150</u></td><td><u>150</u></td><td><u>150</u></td><td><u>150</u></td><td><u>Z</u></td></tr><tr><td colspan="6">Shoreline Buffers from OHWM on Swamp Creek</td></tr><tr><td><u>Residential development</u></td><td><u>NA</u></td><td><u>50 (2)</u></td><td><u>150</u></td><td><u>Z</u></td><td><u>NA</u></td></tr><tr><td><u>All other uses</u></td><td><u>NA</u></td><td><u>150</u></td><td><u>150</u></td><td><u>150</u></td><td><u>NA</u></td></tr></table>	Use	DW	SR	UC	N	A	Shoreline Buffers from OHWM on Sammamish River						<u>Residential development – R12 and denser</u>	<u>Z</u>	<u>20 (2)</u>	<u>150</u>	<u>150</u>	<u>Z</u>	<u>Residential development – R6 and less dense</u>	<u>Z</u>	<u>35 (2)</u>	<u>150</u>	<u>150</u>	<u>Z</u>	<u>Water-oriented parks and recreation</u>	<u>Z (4)</u>	<u>50 (4)</u>	<u>50 (4)</u>	<u>50 (4)</u>	<u>0</u>	<u>Nonwater-oriented parks and recreation</u>	<u>Z</u>	<u>75</u>	<u>100</u>	<u>150</u>	<u>Z</u>	<u>All other uses</u>	<u>150</u>	<u>150</u>	<u>150</u>	<u>150</u>	<u>Z</u>	Shoreline Buffers from OHWM on Swamp Creek						<u>Residential development</u>	<u>NA</u>	<u>50 (2)</u>	<u>150</u>	<u>Z</u>	<u>NA</u>	<u>All other uses</u>	<u>NA</u>	<u>150</u>	<u>150</u>	<u>150</u>	<u>NA</u>	Discuss with City: KMC 16.65.020.A contains designation- and use-specific buffers for Lake Washington. Based on the existing conditions of the Sammamish River (and to a lesser degree Swamp Creek), it is consistent with the SMA to develop designation- and use-specific buffers for these waterbodies, particularly for residential areas. The suggestion provided is just one possible approach.
Use	DW	SR	UC	N	A																																																									
Shoreline Buffers from OHWM on Sammamish River																																																														
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Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
16.65.020.B.2	Suggest adding or revised the following as shown: d. <u>On Sammamish River in high-density Shoreline Residential areas:</u> (1) <u>A minimum shoreline buffer of 20 feet from the ordinary high water mark shall be provided as a vegetation conservation area.</u> (2) <u>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).</u> e. <u>On Sammamish River in low-density Shoreline Residential areas:</u> (1) <u>A minimum shoreline buffer of 35 feet from the ordinary high water mark shall be provided as a vegetation conservation area.</u> (2) <u>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).</u> f. <u>On Swamp Creek in Shoreline Residential areas:</u> (1) <u>A minimum shoreline buffer of 50 feet from the ordinary high water mark shall be provided as a vegetation conservation area.</u> (2) <u>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).</u> gd. On all other shorelines, single-family development shall provide a buffer as required by the provisions of KMC 16.65.020 and 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.	The proposed language provides consistency with the flexibility included for the residential areas on Lake Washington.
16.65.020.B.4	4. <u>Public trails in critical areas and buffers are specifically addressed in Chapter 18.55 KMC. Other new public access improvements in shoreline buffers 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,</u>	Trail-specific regulations that apply to all critical areas and buffers, including shoreline buffers, are proposed to be included in Chapter 18.55 KMC (see Sections 3.2 and 3.3 above). This

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
	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,³ 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.	provision has been modified to address <i>other</i> public access improvements specifically within shoreline buffers.
CHAPTER 16.75: PROCEDURES		
Global	See comment.	The SMP assigns authority to the director. Suggest changing to city manager consistent with other sections of code, including KMC 18.55.
16.75 Procedures	Add a section on administrative decisions and interpretations. Example language: The City shall make administrative decisions and interpretations of the policies and regulations of this SMP and the Act in accordance with Chapter 18.10 KMC. The City shall consult with Ecology to ensure that	Because the SMP is jointly implemented by the City and Ecology, it would be appropriate to identify when such interpretations should be in writing and when formal interpretations need consultation with Ecology.

SHANNON & WILSON, INC.

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
	any formal written interpretations are consistent with the purpose and intent of Chapter 90.58 RCW and 173-26 WAC.	
SHORELINE ENVIRONMENT DESIGNATION MAP		
Designations Map	Suggest extending Shoreline Residential on the south side of the Sammamish River to the east end of NE 170th Street (City limits). 	This area currently has an Urban Conservancy designation although it is zoned and fully developed for residential use.

5.0 FLOOD DAMAGE PREVENTION TITLE 16, DIVISION II

[under development, future Appendix C]

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SECTION 3.6 SUPPLEMENT

City of Kenmore Critical Areas Regulations and Shoreline Master Program Gap Analysis and Recommendations



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21-1-30128-003

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3.6 Flood Hazard Areas and Flood Damage Prevention

The City of Kenmore flood hazard regulations currently fall into two code chapters: 16.90 Flood Damage Prevention and the Critical Areas Chapter 18.55.700 Flood Hazard Areas. The historical reason for having two separate ordinances is that there are two separate legal authorities. Flood damage prevention ordinances have their basis in RCW Chapter 86.16, which includes the minimum standards set by the Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP). This section of the code is generally concerned with regulating development in the mapped, regulatory floodplains along the Sammamish River and Swamp Creek in the Flood Insurance Study of King County, Washington and Incorporated Areas, April 19, 2005 (FEMA, 2005). Critical areas, including frequently flooded areas, are required to be regulated by the RCW 36.70A.060 Growth Management Act.

The City is interested in combining these code chapters and has provided an initial draft that will require additional editing based on this data gap analysis, and other comments.

Other code-related issues have been identified that will need to be incorporated into the revised code (Table X). These topics include the following:

- FEMA floodplain map inaccuracies have been identified by the City and a process for revising / updating the maps needs to be referred to in the code.
- FEMA has performed an audit of the City floodplain administration records. The audit information has been requested from John Graves at FEMA. The audit results and findings may trigger additional adjustments to the code.
- In 2008, the NOAA National Marine Fisheries Service issued a biological opinion (Bi-Op) through Endangered Species Act, Section 7 consultation indicating adverse impacts from FEMA administering the National Flood Insurance Program (NFIP) in the Puget Sound. FEMA Region X has put together an implementation plan that allows communities to apply the performance standards contained in the NFIP BiOp by implementing one of the following three processes (doors): (1) a Model Ordinance, (2) a Programmatic Checklist, or (3) on a permit-by-permit basis as long as it can be demonstrated that there is no adverse effect to listed species. Kenmore has selected door number three to review each permit on a case-by-case basis. The floodplain codes should link to an appropriate section in the critical areas regulations (Chapter 18.55) or State Environmental Policy Act (SEPA) regulations (Chapter 19.35), and describe this process.

TABLE X
ANALYSIS OF AND RECOMMENDATIONS FOR KENMORE MUNICIPAL CODE CHAPTER 16.90 - FLOOD DAMAGE
PREVENTION AND CHAPTER 18.55, ARTICLE XIX – FLOOD HAZARD AREAS

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
KMC 16.90 FLOOD DAMAGE PREVENTION		
16.90.020 Statement of Purpose	Recommend including statement: to encourage adoption of more effective measures that protect natural and beneficial floodplain functions.	Federal statutory code Section 1315 [42 U.S.C. § 4022]] for the federal flood insurance program states that the purpose of the floodplain regulations is to protect natural and beneficial functions. <i>The Natural and Beneficial Functions of Floodplains, Reducing Flood Losses by Protecting and Restoring the Environment</i> (The Task Force for Natural and Beneficial Floodplain Functions, 2002) was prepared under the National Flood Insurance Reform Act 1994, with objectives to: 1) Identify the natural and beneficial functions of floodplains that reduce flood losses, and 2) Recommend how the nation can further reduce flood losses through protection and restoration of the natural and beneficial functions of the floodplain. Washington State Dept. of Ecology, Critical Areas Update web page: https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Guidance-for-floodplains-Critical-Areas-Ordinanc States: Increasingly there is recognition of the importance of floodplains as vital habitat to support salmon and other species... These protections may be

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
		addressed under the frequently flooded areas provisions or within the Fish and Wildlife Habitat Conservation Area provisions of a CAO.
16.90.040 Definitions	See comment.	All definitions should be reviewed to conform to the NFIP regulations. Also – unless all terms used in KMC 16.90 are included in KMC 16.90.040, this definitions section should refer readers to the definitions in KMC 18.20 to find floodplain, flood fringe, special flood hazard area, etc.
16.90.040.G	Remove the definition of “Coastal high hazard area.”	Not applicable in City of Kenmore.
16.90.040.H	Revise as shown: H. “Critical facility” means a facility for which even a slight chance of flooding risks 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.	Suggested edits.
16.90.040.O	Revise as shown: O. “Flood insurance study” means the official report provided by the Federal Emergency Management Agency Insurance Administration that includes <u>flood</u> ing <u>sources and hydrology</u> , flood <u>water surface</u> profiles, the flood <u>plain</u> boundary <u>and</u> floodway <u>boundary</u> map, and the <u>base flood</u> water surface elevations of the base flood .	Suggested edits.
16.90.050 Lands to which this chapter applies	See comment.	Discuss with City: As currently stated, the chapter applies to <i>all areas of special flood hazards</i> within the City. By definition, special flood hazard areas are mapped. This brings up the topic of unmapped flood hazards. Many agencies have language that discusses unmapped flood hazards. This can

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
		apply to smaller streams and watercourses that may have flooding and need floodway protections, but are not included in the King County flood maps.
16.90.060 Basis for establishing the areas of special flood hazard	Revise as shown: The areas of special flood hazard identified by the Federal Insurance Administration Federal Emergency Management Agency (FEMA) in a scientific and engineering report entitled "The Flood Insurance Study of King County, Washington and Incorporated Areas," dated April 19 9, 2005, with an accompanying flood insurance maps (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).	Suggested edits to address agency name changes and other corrections.
16.90.100 Warnings and disclaimer of liability	Revise as shown: 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 larger than the regulatory base flood can and will occur on rare occasions. Flooding may occur in unmapped areas. 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.	Suggested edits for accuracy.
16.90.110-B.1 and 2	Revise as shown: 1. Elevation in relation to mean sea level <u>the current flood study base flood elevation survey datum</u> of the lowest floor (including basement) of all structures;	Elevations should be referenced to the current flood study base flood elevation survey datum, not mean sea level. The 2005 flood study uses NGVD29, and the preliminary flood studies to be approved will use

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
	2. Elevation in relation to mean sea level <u>the current flood study base flood elevation survey datum</u> to which any structure has been floodproofed;	NAVD88. It is the developer's, landowner's, and proponent's responsibility to confirm the project datum.
16.90.130 Duties and responsibilities of the local administrator	Revise as shown: 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 <u>the base flood elevation datum</u> 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.	Suggested edits.
16.90.130 Duties and responsibilities of the local administrator	Revise as shown: D. Alteration of Watercourses. 1. Notify adjacent communities and the Department of Ecology, or federal resource agencies where required, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA the Federal Insurance Administration.	Suggested edits.
16.90.140 Variance procedure	Revise as shown: A. Appeal to Hearing Examiner. j. The expected depths , 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	Suggested edits.
16.90.170 Floodways	Revise as shown: 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 <u>and depth</u> of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:	Suggested edits. Also, need to be clear about the FEMA floodway versus a Zero-Rise floodway. A Zero-Rise floodway would likely have portions along the floodplain (fringe) that are not considered "extremely" hazardous.

Section of the Kenmore Municipal Code	Recommendation	Comment / Science Reference
KMC 18.55.700 FLOOD HAZARD AREAS		
18.55.700.A Flood hazard areas	See comment.	KMC 18.55.700.A lists the components of the flood hazard area. Chapter 18.20 contains these definitions, except it is not clear from the Floodway definition whether that is identical to the FEMA floodway. The Zero-rise Floodway definition indicates that the FEMA Floodway may be a sub-set of the zero-rise floodway.
18.55.700.B Flood hazard areas	Revise as shown: B. ... In areas where the flood insurance study for the City includes detailed base flood <u>elevation</u> calculations, those calculations may be used until projections of future flows are completed and approved by the City.	Suggested edits.
18.55.710 Flood fringe – Development standards and permitted alterations	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, <u>and fish habitat restoration projects that meet an allowed rise limitation of 0.1 feet, that are</u> designed to the standards of and approved by the City is <u>are</u> exempt from this compensatory storage requirement.	Suggested edits. Adding for fish habitat restoration allows would link to the natural and beneficial floodplain functions described above.
18.55.720 Zero-rise floodway – Development standards and permitted alterations	J. Structures and installations which are dependent upon the <u>Zero-rise</u> floodway may be located in the <u>Zero-rise</u> floodway if the development proposal is approved by all agencies with jurisdiction. Such structures include, but are not limited to: ...	Suggested edits for clarity.

6.0 REFERENCES

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Draft



CRITICAL AREAS CHECKLIST

A Technical Assistance Tool From Growth Management Services – updated February 2018

Name of city or county: City of Kenmore
Staff contact, phone, and e-mail address: Lauri Anderson, Senior Planner, 425.398.8900, landerson@kenmorewa.gov
CRITICAL AREAS Regulations protecting critical areas are required by RCW 36.70A.060(2) and RCW 36.70A.172(1) and WAC 365-195-900 through 925 provide guidelines. Guidance can also be found in Commerce's Critical Areas Assistance Handbook (January, 2007, currently being updated); the Minimum Guidelines WAC 365-190-080 – 130; Best Available Science, Chapter 365-195 WAC; and Procedural Criteria, WAC 365-196-485 and WAC 365-196-830, and on Growth Management's Critical Areas and Best Available Science webpage.

Regulations required to protect critical areas	Addressed in current plan or regulations? If yes, note where
FREQUENTLY FLOODED AREAS Regulations protect the functions and values of frequently flooded areas and safeguard the public from hazards to health and safety. RCW 36.70A.172(1) WAC 365-196-830 provides: "Protection" in this context means preservation of the functions and values of the natural environment, or to safeguard the public from hazards to health and safety." WAC 365-190-110 (updated in 2010) directs counties and cities to consider the following when designating and classifying frequently flooded areas: (a) Effects of flooding on human health and safety, and to public facilities and services; (b) Available documentation including federal, state, and local laws, regulations, and programs, local studies and maps, and federal flood insurance programs, including the provisions for urban growth areas in RCW 36.70A.110; (c) The future flow flood plain, defined as the channel of the stream and that portion of the adjoining flood plain that is necessary to contain and discharge the base flood flow at build out; (d) The potential effects of tsunami, high tides with strong winds, sea level rise, and extreme weather events, including those potentially resulting from global climate change; (e) Greater surface runoff caused by increasing impervious surfaces. Classification of and regulations for frequently flooded areas should not conflict with the Federal Emergency Management Agency (FEMA) requirements for the National Flood Insurance Program. See Ecology's Floods & Floodplain Planning, 86.16 RCW, 173-158 WAC, and 44 CFR 60. Communities that are located on Puget Sound or the Strait of San Juan de Fuca,	Are frequently flooded areas designated and regulated using FEMA and Ecology guidance? ☒ Yes ☐ No ☐ N/A Location in Text: See KMC 16.90 and 18.55.700-750, and the comments and suggested incorporated into the Gap Analysis. The regulations some minor updates and clarification. Are you utilizing your CAO as part of a programmatic response to the BiOp? ☐ Yes ☐ No ☐ N/A Location in Text: The City's mechanism for responding to the BiOp is not clear in the code, but is being implemented by staff through

Regulations required to protect critical areas	Addressed in current plan or regulations? If yes, note where
or have lakes, rivers or streams that directly or indirectly drain to those water bodies, are subject to the National Flood Insurance Program Biological Opinion (BiOp) for Puget Sound (https://www.fema.gov/media-library/assets/documents/30021). The biological opinion required changes to the implementation of the National Flood Insurance Program in order to meet the requirements of the Endangered Species Act (ESA) in the Puget Sound watershed. FEMA Region X has developed an implementation plan that allows communities to apply the performance standards contained in the Biological Opinion by implementing: 1) a model ordinance (https://www.fema.gov/media-library/assets/documents/85339); 2) a programmatic Checklist (https://www.fema.gov/media-library/assets/documents/85336); or 3) on a permit by permit basis (https://www.fema.gov/media-library/assets/documents/85343) as long as it can be demonstrated that there is no adverse effect to listed species. Communities have the <u>option</u> of utilizing their CAOs as part of a programmatic response to address the requirements of the biological opinion. FEMA must approve a community's biological opinion compliance strategy. Additional resources: RCW 86.12 Flood Control by Counties RCW 86.16 Floodplain Management RCW 86.26 State Participation in Flood Control Maintenance RCW 86.16.041 Floodplain Management Ordinance and Amendments WAC 173-158-070 Requirements for construction in Special Flood Hazard Areas	"Door 3." This update will provide a clear linkage and direction for applicants.