City of Kenmore

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

City of Kenmore
Planning Commission Meeting Agenda

Tuesday, November 20, 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. **AGENDA ITEMS**

   A. Critical Areas and Shoreline Master Program Amendments
   Critical Areas and Shoreline Master Program Amendments Memo
   a. Attachment 1 - Part 1
   b. Attachment 1 - Part 2
   c. Attachment 2 - Groundwater Regulations
   d. Attachment 3 - Shoreline Sub-Element
   e. Attachment 4 - SMP Regulations Set 1

   B. Potential meeting dates for a Planning Short Course in Kenmore

   C. Open Government Training

4. **ADJOURNMENT**

5. **UPCOMING MEETINGS:**
   December 4, 2018, 7:00 p.m.
   December 18, 2018

18120 68TH AVENUE NE
KENMORE, WASHINGTON 98028

MEMO

TO: Planning Commission

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

DATE: November 13, 2018

SUBJECT: Critical Areas and Shoreline Master Program Amendments

The agenda for your November 20 discussion on the critical areas and Shoreline Master Program amendments is focused on four items: (1) draft regulations related to frequently flooded areas and flood damage prevention; (2) draft groundwater regulations; (3) the Comprehensive Plan Shoreline Sub-Element; and (4) the first set of shoreline regulations. On the 20th, we will present the "groundwater susceptibility map" you requested at an earlier meeting.

The frequently flooded areas and flood damage prevention regulations are a consolidation of two existing Municipal Code chapters, Chapter 16.90 and Article XIX in Chapter 18.55. The draft regulations have been sent to John Graves at the Federal Emergency Management Agency (FEMA) to be sure that the combined rules meet the standards for the National Flood Insurance Program. Code definitions (and some amendments to the definitions) also are attached for your use.

Staff recommends that you review these changes and discuss concerns "by exception," rather than going through each amendment. If you have questions prior to the meeting, please don't hesitate to contact us.

Attachments
Attachment 1: Proposed amendments to frequently flooded areas and flood damage prevention regulations, including definitions
Attachment 2: Proposed groundwater regulations
Attachment 3: Proposed amendments to the Shoreline Sub-Element
Attachment 4: First set of shoreline regulation amendments

Chapter 18.55
CRITICAL AREAS

Sections:

Article XIX. Frequently Flooded Areas and Flood ~~Hazard Areas~~Damage Prevention

18.55.700 Purpose.

18.55.7005 Frequently flooded and flood hazard areas.

18.55.710 Basis for establishing flood hazard areas.

18.55.715 Permits.

18.55.720 Final certification by engineer or surveyor.

18.55.723 Designation and responsibilities of the local administrator.

18.55.725 Information to be obtained and maintained by the City.

18.55.730 Development standards applicable to all flood hazard areas.

18.55.740 Development standards for specific uses in flood hazard areas.

18.55.7050 Development in the fFlood fringe ~~– Development standards and permitted alterations.~~

18.55.7260 Development in the zZero-rise floodway ~~– Development standards and permitted alterations~~.

18.55.7370 Development in the FEMA floodway ~~– Development standards and permitted alterations~~.

~~18.55.740 Flood hazard areas – Certification by engineer or surveyor.~~

~~18.55.750 Channel relocation and stream meander areas.~~

18.55.780 Habitat Assessment.

18.55.790 Warnings and disclaimer of liability.

18.55.795 Variances in flood hazard areas.

Article XIX. ~~Flood Hazard Areas~~Frequently Flooded Areas and Flood Damage Prevention

~~16.90.010~~18.55.700 ~~Findings of fact~~Purpose.

The flood hazard areas of the City of Kenmore are subject to periodic inundation which ~~results~~may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for *flood* protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. ~~B.~~ These *flood* losses are

caused by the cumulative effect of *development*~~obstructions~~ in areas of ~~special~~ *flood* hazard~~s~~ which increase *flood* heights and velocities~~, and, when~~.

Uses that are inadequately floodproofed, elevated, anchored, or otherwise protected from *flood* damage contribute to *flood* losses~~damage uses in other areas~~. ~~Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.~~ The purpose of this chapter is to establish minimum standards for *developments* located within or adjacent to *flood* hazard areas. The following statements describe the purpose of this Chapter:

~~**16.90.020 Statement of purpose.**~~

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

A. Protect human life and health;

B. Minimize expenditure of public money and costly *flood* control projects;

C. Minimize the need for rescue and relief efforts associated with *flooding* ~~and generally undertaken at the expense of the general public~~;

D. Minimize prolonged business interruptions;

E. Minimize damage to public infrastructure, facilities and utilities ~~such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard~~;

F. Minimize damage to critical fish and wildlife habitat areas;

G. Protect frequently flooded areas that provide natural and beneficial ecological functions, including providing vital habitat to support salmon and other fish and wildlife species;

~~F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;~~

~~G~~H. Ensure that potential buyers are notified that property is in a~~n~~ ~~area of special~~ *flood* hazard area; ~~and~~

~~H~~I. Ensure that those who occupy ~~the areas of special~~ *flood* hazard areas assume responsibility for their actions~~.~~; and

J. Qualify for participation in the National Flood Insurance Program, thereby providing owners located within the mapped *flood* hazard the opportunity to purchase *flood* insurance.

~~**16.90.030 Methods of reducing flood losses.**~~

~~In order to accomplish its purposes, this chapter includes methods and provisions for:~~

~~A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;~~

~~B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;~~

~~C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;~~

~~D. Controlling filling, grading, dredging, and other development which may increase flood damage; and~~

~~E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or may increase flood hazards in other areas.~~

18.55.70~~0~~5 Frequently flooded and ~~F~~flood hazard areas.

A. Frequently flooded and ~~F~~*flood hazard areas* consist of the following components:

1. *Floodplain*;

2. *Flood fringe*;

3. *Zero-rise floodway*; and

4. *Federal Emergency Management Agency (FEMA) floodway*.

~~**16.90.050 Lands to which this chapter applies.**~~

~~This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Kenmore.~~

~~**16.90.060**~~**18.55.710 Basis for establishing ~~the~~ flood hazard areas~~of special flood hazard~~.**

A~~B~~. The *City* shall determine the *flood hazard area* after obtaining, reviewing and utilizing *base flood elevations* and available floodway data for a *flood* having a one percent chance of being equaled or exceeded in any given year, often referred to as the “100-year *flood*.” The *base flood* is determined for existing conditions, unless a basin plan including projected flows under future developed conditions has been completed and adopted by the *City*, in which case these future flow projections shall be used.

B. The areas of special *flood* hazard identified by the Federal ~~Insurance Administration~~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, 2005, with an accompanying effective *flood insurance rate map (FIRM)*, dated November 8, 1999, and May 16, 1995, and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The *flood insurance study* is on file at Kenmore City Hall. ~~The best available information for flood hazard area identification as outlined in KMC 16.90.130(B) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under KMC 16.90.130(B).~~ In areas where the *flood insurance study* for the *City* includes detailed *base flood elevation* calculations, those calculations may be used until projections of future flows are completed and approved by the *City*.

C. The *City* may use other sources of *flood* hazard data to determine *floodplain* boundaries, floodway boundaries, *base flood elevations* or cross sections when identifying a flood hazard area:

1. Preliminary Flood Insurance Rate Maps;

2. Preliminary Flood Insurance Studies;

3. Draft *flood* boundary work maps and associated technical reports;

4. *Critical area* reports prepared in accordance with FEMA standards contained in 44 C.F.R. Part 65 and consistent with the King County Surface Water Design Manual provisions for *floodplain* analysis;

5. Letter of map amendments;

6. Letter of map revisions;

7. Channel migration zone maps and studies;

8. Historical *flood* hazard information;

9. Wind and wave data provided by the United States Army Corps of Engineers; and

10. Any other available data that accurately classifies and delineates the *flood* hazard area or *base flood elevation*.

D. ~~Review of Building Permits.~~ Where elevation data is not available either through the *flood insurance study* or from another authoritative source ~~(KMC 16.90.130(B))~~, applications for building permits shall be reviewed to ~~asen~~sure that proposed construction will be reasonably safe from *flooding*. The test of

reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past *flooding*, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

4E. Where *base flood elevation* data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed *developments* which contain at least 50 lots or five acres (whichever is less).

~~In areas where the flood insurance study for the *City* includes detailed *base flood* calculations, those calculations may be used until projections of future flows are completed and approved by the *City*.~~

~~16.90.090 Interpretation.~~

~~In the interpretation and application of this chapter, all provisions shall be:~~

~~A. Considered as minimum requirements;~~

~~B. Liberally construed in favor of the governing body; and~~

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

~~16.90.110~~18.55.715 ~~Establishment of development~~Ppermits.

A. Development Permit Required. A *development* permit shall be obtained before construction or *development* begins within any ~~area of special~~ *flood* hazard area~~established in KMC~~ 16.90.060. The permit shall be for all *structures*, including *manufactured homes*, ~~as set forth in KMC~~ 16.90.040, and for all *development*, including fill~~ and other activities, also as set forth in KMC~~ 16.90.040.

B. Application for Development Permit. Application for a *development* permit shall be made on forms furnished by the City of Kenmore and may include but not be limited to plans ~~in duplicate~~ drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed *structures*, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1. Elevation in relation to ~~mean sea level~~the effective ~~current~~ flood study *base flood elevation* survey datum of the *lowest floor* (including *basement*) of all *structures*;

2. Elevation in relation to ~~mean sea level~~the effective ~~current~~ flood study *base flood elevation* survey datum to which any *structure* has been floodproofed;

3. Map depicting existing conditions, wetlands, streams, water bodies, designated fish and wildlife habitats of importance, the boundary of the *flood* hazard area and floodway, and the location of grading and *structures* in the proposed *development*.

4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed *development*~~.~~; and

~~3~~5. Certification by a registered professional engineer or architect that the *floodproofing* methods for any nonresidential *structure* meet the *floodproofing* ~~criteria in KMC~~ 16.90.160~~(B)~~standards in this chapter~~; and~~.

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

~~J~~D. Prior to approving any permit ~~for alterations in the *flood fringe*~~, the *City* shall determine that all permits required by State or federal law have been obtained.

E. A notice on title shall be recorded consistent with KMC 18.55.250.

18.55.7420 ~~Flood hazard areas –~~ Final c~~C~~ertification by engineer or surveyor.

A. For all new *structures* or *substantial improvements* in a *flood hazard area*, the *applicant* shall provide certification by a professional civil engineer or land surveyor licensed by the State of Washington of:

1. The actual as-built elevation of the *lowest floor*, including *basement*; and

2. The actual as-built elevation to which the *structure* is floodproofed, if applicable.

B. The engineer or surveyor shall indicate if the *structure* has a *basement*.

~~C. The *City* shall maintain the certifications required by this section for public inspection.~~

~~16.90.120~~18.55.723 Designation and responsibilities of the local administrator.

The ~~director~~*city manager* is hereby appointed to administer and implement this chapter by granting or denying *development* permit applications in accordance with its provisions.

~~16.90.130 Duties and responsibilities of the local administrator.~~

Duties of the ~~director~~*city manager* shall include, but not be limited to:

~~A. Permit Review.~~

~~1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;~~

~~2. Review all development permits to determine that all necessary permits have been obtained from those federal, State, or local governmental agencies from which prior approval is required; and~~

~~3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of KMC 16.90.170(A) are met.~~

~~B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with KMC 16.90.060, the director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, State or other source, in order to administer KMC 16.90.160 and 16.90.170.~~

A. Review of the *flood* hazard area maps, and other source documents, for any *development proposal* to determine whether the proposed project area for a regulated activity falls within a potential *flood* hazard area;

B. Review of proposed *development* located within a *flood* hazard area to ensure compliance with the *flood* hazard area standards set forth in this chapter; and.

~~E~~C. Interpretation of FIRM ~~B~~boundaries. The *city manager* shall ~~M~~make interpretations, where needed, as to exact location of the boundaries of the *flood* hazard area~~s of special flood hazards~~ (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation to the *hearing examiner* as provided in KMC ~~16.90.140~~KMC Chapter 19.30.

18.55.725~~C.~~ Information to Be Obtained and Maintained by the City.

~~1~~A. ~~Where base flood elevation data is provided through the flood insurance study or required as in subsection B of this section,~~tThe *City* shall obtain and record the actual elevation (in relation to ~~mean sea level~~the *base flood elevation* datum) of the *lowest floor* (including *basement*) of all new or substantially improved *structures*, and whether or not the *structure* contains a *basement*.

~~2~~B. For all new or substantially improved floodproofed *structures*, the *City* shall:

~~a~~1. Verify and record the actual elevation (in relation to ~~mean sea level~~the *base flood elevation* daturm); and

~~b~~2. Maintain the *floodproofing* certifications required in this chapter~~KMC 16.90.110(B)(3)~~.

C. Alteration of Watercourses. The *City* shall:

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 the Federal ~~Insurance Administration~~Emergency Management Agency.

2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the *flood*-carrying capacity is not diminished.

~~3~~D. The *City* shall m~~M~~aintain for public inspection all records pertaining to the provisions of this chapter.

18.55.730 Development standards applicable to all flood hazard areas.

Development proposals on *sites* within *flood hazard areas* shall meet the following requirements:

A. Buffers. No *critical area buffer* is required for a *flood* hazard area.

B. Anchoring.

1. All new construction and *substantial improvements* shall be anchored to prevent flotation, collapse, or lateral movement of the *structure*.

2. All *manufactured homes* must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize *flood* damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

C. Construction Materials and Methods.

1. All new construction and *substantial improvements* shall be constructed with materials and utility equipment resistant to *flood* damage.

2. All new construction and *substantial improvements* shall be constructed using methods and practices that minimize *flood* damage.

3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other utility and service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of *flooding*.

~~C~~4. ~~Require a~~Adequate drainage paths shall be provided around *structures* on slopes to guide floodwaters around and away from proposed *structures*.

D. Utilities.

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

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

3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during *flooding*. They shall be, to the extent possible, located outside of the *floodplain*. The installation of a new on-site sewage disposal system in the *flood fringe* may be allowed if no feasible alternative *site* is available.

4. Above-ground utility transmission lines, other than electric transmission lines, shall only be allowed for the transport of nonhazardous substances; and

5. Buried utility transmission lines transporting *hazardous substances* shall be buried at a minimum depth of four feet below the maximum depth of scour for the *base flood*, as predicted by a professional civil engineer licensed by the State of Washington, and shall achieve sufficient negative buoyancy so that any potential for flotation or upward migration is eliminated.

~~H. Utilities shall meet the following requirements:~~

~~1. New and replacement utilities including, but not limited to, sewage treatment facilities shall be floodproofed to or elevated above the *flood protection elevation*;~~

~~2. New on-site sewage disposal systems shall be, to the extent possible, located outside the limits of the *base flood elevation*. The installation of new on-site sewage disposal systems in the *flood fringe* may be allowed if no feasible alternative *site* is available;~~

~~16.90.160~~ ~~Specific s~~18.55.740 Development standards for specific uses in flood hazard areas.

~~In all areas of special flood hazards where base flood elevation data has been provided as set forth in KMC 16.90.060 or 16.90.130(B), the following provisions are required:~~

A. Residential Construction.

1. New construction and *substantial improvement* of any residential *structure* shall have the *lowest floor*, including *basement*, elevated one foot above the *base flood elevation*.

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

    a. A minimum of two openings on opposite walls having a total ~~net~~open area of not less than one square inch for every square foot of enclosed area subject to *flooding* shall be provided;

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

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

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

~~1. The lowest floor shall be elevated to the *flood protection elevation*;~~

~~2. Portions of a *structure* which are below the lowest floor area shall not be fully enclosed. The areas and rooms below the lowest floor shall be designed to automatically equalize hydrostatic and hydrodynamic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for satisfying this requirement shall meet or exceed the following requirements:~~

~~3. Materials and methods which are resistant to and minimize flood damage shall be used; and~~

~~4. All electrical, heating, ventilation, plumbing, air conditioning equipment and other utility and service facilities shall be floodproofed to or elevated above the *flood protection elevation*.~~

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

B~~C~~. Manufactured Homes.

1. All *manufactured homes* to be placed or substantially improved within Zones A1 through A30, AH, and AE on the community's FIRM on sites:

a. Outside of a *manufactured home* park or subdivision;

b. In a new *manufactured home* park or subdivision;

c. In an *expansion to an existing manufactured home park or subdivision*; or

d. In an existing *manufactured home* park or subdivision on which a *manufactured home* has incurred "*substantial damage*" as the result of a *flood*;

shall be elevated on a permanent foundation such that the *lowest floor* of the *manufactured home* is elevated one foot above the *base flood elevation* and shall be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

2. *Manufactured homes* to be placed or substantially improved on sites in an existing *manufactured home* park or subdivision within Zones A1 through 30, AH, and AE on the community's FIRM that are not subject to the above *manufactured home* provisions shall be elevated so that either:

a. The *lowest floor* of the *manufactured home* is elevated one foot above the *base flood elevation*; or

b. The *manufactured home* chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and is securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

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

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

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

~~a. A new *mobile home park*;~~

~~b. An expansion of an existing *mobile home park*; or~~

~~c. Any repair or reconstruction of *streets*, utilities or pads in an existing *mobile home park* which equals or exceeds 50 percent of the value of such *streets*, utilities or pads.~~

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

C~~B~~. Nonresidential Construction. New construction and *substantial improvement* of any commercial, industrial or other nonresidential *structure* shall either have the *lowest floor*, including *basement*, elevated one foot above the *base flood elevation*; or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below one foot above the *base flood* level the *structure* is watertight with walls substantially impermeable to the passage of water;

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

3. Be certified by a ~~registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in KMC 16.90.130(C)(2)~~ professional civil or structural engineer licensed by the State of Washington that the *floodproofing* methods are adequate to withstand the *flood* depths, pressures, velocities, impacts, uplift forces and other factors associated with the *base flood*. After construction, the engineer shall certify that the permitted work conforms with the approved plans and specifications;

4. Nonresidential *structures* that are elevated, not floodproofed, must meet the same standards for space below the *lowest floor* as described in subsection (A)(2) of this section;

5. ~~Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level;~~Approved building permits for floodproofed nonresidential *structures* shall contain a statement notifying *applicants* that flood insurance premiums shall be based upon rates for *structures* which are one foot below the floodproofed level (e.g., a building floodproofed to the *base flood* level will be rated as one foot below);

6. Sewage and agricultural waste storage facilities shall be floodproofed to the *flood protection elevation*.

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

~~1. The elevation requirement for residential *structures* contained in subsection (D)(1) of this section shall be met; or~~

~~2. The *structure* shall be floodproofed to the *flood protection elevation* and shall meet the following requirements:~~

~~3. Materials and methods which are resistant to and minimize flood damage shall be used; and~~

~~4. All electrical, heating, ventilation, plumbing, air conditioning equipment and other utility and service facilities shall be floodproofed to or elevated above the *flood protection elevation*.~~

~~B. New construction and substantial improvements of nonresidential structures within AO Zones shall either:~~

~~1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or~~

~~2. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in KMC 16.90.160(B)(3).~~

D. Recreational Vehicles. *Recreational vehicles* placed on sites within Zones A1 through 30, AH, ~~and~~ AE, and AO on the community's FIRM shall either:

1. Be on the site for fewer than 180 consecutive days;

2. Be fully licensed and ready for highway use, on their wheels or jacking systems, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

3. Meet the requirements of subsection ~~C~~B of this section ~~and~~, including the elevation and anchoring requirements ~~for manufactured homes~~.

~~**16.90.200**~~E. *Critical facility*. Construction of new *critical facilities* shall be, to the extent possible, located outside the limits of the ~~special flood hazard area (SFHA) (100-year~~ *floodplain*~~)~~. Construction of new *critical facilities* shall be permissible within the ~~SFHA~~*floodplain* if no feasible alternative site is available and if the proposal is evaluated through the conditional use permit process. *Critical facilities* constructed within the ~~SFHA~~*floodplain* shall have the *lowest floor* elevated three feet or more above the level of the *base flood elevation* (100-year) at the site. *Floodproofing* and sealing measures ~~must~~shall be taken to ensure that ~~toxic~~hazardous substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the *base flood elevation* shall be provided to all *critical facilities* ~~to the extent possible.~~from the nearest maintained public *street* or roadway.

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

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

1. New building *lots* shall contain 5,000 square feet or more of buildable land outside the *zero-rise floodway*, and building *setback* areas shall be shown on the face of the plat to restrict permanent *structures* to this buildable area;

2. All utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed consistent with KMC 18.55.730~~subsections D, E and H of this section;~~

3. *Base flood* data and *flood* hazard notes shall be shown on the face of the recorded subdivision, short subdivision or binding site plan including, but not limited to, the *base flood elevation*, required *flood protection elevations* and the boundaries of the *floodplain* and the *zero-rise floodway*, if determined; and

4. The following notice shall also be shown on the face of the recorded subdivision, short subdivision or binding site plan for all affected lots:

NOTICE

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

~~J. Subdivision Proposals.~~

~~1. All subdivision proposals shall be consistent with the need to minimize flood damage.~~

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

~~3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.~~

18.55.7~~15~~0 Development in the f~~F~~lood fringe ~~– Development standards and permitted alterations~~.

~~**16.90.190 Standards for shallow flooding areas (AO Zones).**~~

~~Shallow flooding areas appear on FIRMs as AO Zones with depth designations. The base flood depths in these zones range from one to three feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:~~

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

~~A.~~ *Development proposals* on sites within the *flood fringe* 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 ~~as~~ensure 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, and fish habitat restoration projects that meet an allowed rise limitation of 0.1 feet, that are designed to the standards of and approved by the *City* ~~is~~are exempt from this *compensatory storage* requirement. The project applicant shall submit a hydraulic engineering a study prepared by a registered professional engineer in the State of Washington, certifying that the *development proposal* meets no-rise.

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

~~J. Prior to approving any permit for alterations in the *flood fringe*, the *City* shall determine that all permits required by State or federal law have been obtained.~~

~~16.90.180~~B. Encroachments.

The cumulative effect of any proposed *development*, where combined with all other existing and anticipated *development*, shall not increase the water surface elevation of the *base flood* more than one foot at any point.

18.55.7~~2~~60 Development in the ~~Z~~zero-rise floodway ~~– Development standards and permitted alterations~~.

~~Located within areas of special flood hazard established in KMC~~ 16.90.060 ~~are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:~~

~~C. If subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of KMC~~ 16.90.150 ~~through~~ 16.90.200~~.~~

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

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

1. Amendments to the *flood insurance rate map* are adopted by FEMA, in accordance with 44 CFR 70, to incorporate the increase in the *base flood elevation*; and

2. Appropriate legal documents are prepared in which all property owners affected by the increased *flood* elevations consent to the impacts on their property. These documents shall be filed with the title of record for the affected properties.

~~F~~C. New residential *structures* or any *structure* accessory to a residential *use* shall meet the following requirements:

1. The *structures* shall be outside the FEMA floodway; and

2. The *structures* shall be on *lots* in existence before November 27, 1990, which contain less than 5,000 square feet of buildable land outside the *zero-rise floodway*.

~~B~~D. ~~Construction or reconstruction of residential structures is prohibited within designated floodways, except for~~ The following modifications to residential *structures* are permitted:

1. Repairs, reconstruction, or improvements to a *structure* which do not increase the ground floor area; and

2. Repairs, reconstruction or improvements to a *structure*, the cost of which does not exceed 50 percent of the market value of the *structure* either:

   a. Before the repair or reconstruction is started; or

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

Work done on *structures* to comply with existing health, sanitary, or safety codes or to *structures* identified as historic places shall not be included in the 50 percent.

~~D~~E. The following are presumed to produce no increase in *base flood elevation* and shall not require a special study to establish this fact:

1. New residential *structures* outside the *FEMA* floodway on *lots* in existence before November 27, 1990, which contain less than 5,000 square feet of buildable land outside the *zero-rise floodway* and which have a total building footprint of all proposed *structures* on the lot of less than 2,000 square feet;

2. *Substantial improvements* of existing residential *structures* in the *zero-rise floodway*, but outside the *FEMA floodway*, where the footprint is not increased; or

3. *Substantial improvements* of existing residential *structures* meeting the requirements for new residential *structures* in KMC 18.55.71~~1~~40.

~~D~~F. Post or piling construction techniques which permit water flow beneath a *structure* shall be used.

~~E~~G. All temporary *structures* or substances hazardous to public health, safety and welfare, except for *hazardous household substances* or consumer products containing *hazardous substances*, shall be removed from the *zero-rise floodway* during the *flood* season from September 30th to May 1st.

~~H. *Critical facilities* shall not be allowed within the *zero-rise floodway* except as provided in subsection J of this section.~~

~~I~~H. Livestock manure storage facilities and associated nonpoint source water pollution facilities designed, constructed and maintained to the standards of and approved in a conservation plan by the *City* may be allowed if the *City* reviews and approves the location and design of the facilities.

~~J~~I. *Structures* and installations which are dependent upon the zero-rise floodway may be located in the zero-rise floodway if the *development proposal* is approved by all agencies with jurisdiction. Such *structures* include, but are not limited to:

1. Dams or diversions for water supply, *flood* control, hydroelectric production, irrigation or fisheries enhancement;

2. *Flood* damage reduction facilities, such as levees and pumping stations;

3. Stream bank stabilization *structures* where no feasible alternative exists for protecting public or private property;

4. Stormwater conveyance facilities subject to the development standards for *streams* and *wetlands* and the surface water design manual;

5. *Boat launches* and related recreation *structures*;

6. Bridge piers and abutments; and

7. Other fisheries enhancement or stream restoration projects.

~~C~~J. Utilities may be allowed within the *zero-rise floodway* if the *City* determines that no feasible alternative *site* is available, subject to the following requirements:

1. Installation of new on-site sewage disposal systems shall be prohibited unless a waiver is granted by Seattle/King County public health; and

~~2. Construction of sewage treatment facilities shall be prohibited.~~

~~A~~K. ~~Prohibit e~~Encroachments~~.~~ Encroachments, including fill, new construction, *substantial improvements*, and other *development*, are prohibited unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in *flood* levels during the occurrence of the *base flood* discharge.

L. The project applicant shall submit a hydraulic engineering a study, by a registered professional engineer in the State of Washington, certifying that the *development proposal* meets no-rise.

18.55.7~~3~~70 Development in the FEMA floodway~~ – Development standards and permitted alterations~~.

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

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

C. New residential or nonresidential *structures* are prohibited within the *FEMA floodway* except as described in KMC 18.55.760.J.

D. *Substantial improvements* of existing residential *structures* in the *FEMA floodway*, meeting the requirements of WAC 173-158-070, as amended, are presumed to produce no increase in *base flood elevation* and shall not require a special study to establish this fact.

E. The project applicant shall submit a hydraulic engineering study prepared by a registered professional engineer in the State of Washington, certifying that the *development proposal* meets no-rise.

~~**16.90.170 Floodways.**~~

~~Located within areas of special flood hazard established in KMC 16.90.060 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:~~

~~C. If subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of KMC 16.90.150 through 16.90.200.~~

~~**18.55.750 Channel relocation and stream meander areas.**~~

~~No *structure* shall be allowed which would be at risk due to channel relocation or stream meander until the promulgation of a public rule.~~

18.55.780 Habitat Assessment

To comply with Federal Endangered Species Act requirements, the applicant shall provide an assessment of impacts to federal, state or locally listed species, habitat, water quality and aquatic riparian habitat impacts, for any proposal lying within a mapped *flood* hazard area. See KMC Chapter 18.55, Article VIII.

~~**16.90.100**~~**18.55.790 Warnings and disclaimer of liability.**

The degree of *flood* protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. *Floods* larger than the regulatory *base flood*~~Larger floods~~ can and will occur~~ on rare occasions~~. *Flooding* and *flood* hazards 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* hazard~~s~~ areas 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~~Emergency Management Agency for any *flood* damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

~~16.90.140~~18.55.795 Variance~~s~~ in flood hazard areas~~procedure~~.

~~B~~A. Conditions for Variances.

1. Generally, the only condition under which a *variance* from the elevation standard may be issued is for new construction and *substantial improvements* to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing *structures* constructed below the *base flood* level, providing subsections (~~A~~B)(~~4~~1)~~(a)~~ through (~~A~~B)(~~4~~11)~~(k)~~ of this section have been fully considered. As the lot size increases the technical justification required for issuing the *variance* increases.

2. *Variances* may be issued for the reconstruction, rehabilitation, or restoration of *structures* listed on the National Register of Historic Places or the ~~State Inventory of Historic Places~~Washington Heritage Register, or the *City's* local landmarks, without regard to the procedures set forth in this section.

3. *Variances* shall not be issued within a designated floodway if any increase in *flood* levels during the *base flood* discharge would result.

4. *Variances* shall only be issued upon a determination that the *variance* is the minimum necessary, considering the *flood* hazard, to afford relief.

5. *Variances* shall only be issued upon:

   a. A showing of good and sufficient cause;

   b. A determination that failure to grant the *variance* would result in exceptional hardship to the applicant;

   c. A determination that the granting of a *variance* will not result in increased *flood* heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

6. *Variances* as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the *structure*, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, *variances* from the *flood* elevations should be quite rare.

7. *Variances* may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of *floodproofing* than watertight or dry *floodproofing*, where it can be determined that such action will have low damage potential, complies with all other *variance* ~~criteria~~conditions except subsection (~~B~~A)(1) of this section and otherwise complies with KMC ~~16.90.150~~18.55.730(A) and (B).

8. Any applicant to whom a *variance* is granted shall be given written notice that the *structure* will be permitted to be built with a *lowest floor* elevation below the *base flood* elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced *lowest floor* elevation.

~~A. Appeal to Hearing Examiner.~~

~~1. The hearing examiner shall hear and decide appeals and requests for variances from the requirements of this chapter.~~

~~2. The hearing examiner shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the director in the enforcement or administration of this chapter.~~

~~3. Those aggrieved by the decision of the hearing examiner may appeal such decision to the superior court, as provided in Chapter 36.70C RCW, the Land Use Petition Act.~~

~~4. In passing upon such applications, the hearing examiner~~

B. If a *variance* to the standards in this article is proposed, the decisionmaker shall consider, in addition to the conditions itemized in subsection A, above, and the standard *variance* criteria itemized in KMC 18.115.030~~all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and~~:

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

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

e3. The susceptibility of the proposed facility and its contents to *flood* damage and the effect of such damage on the individual owner;

d4. The importance of the services provided by the proposed facility to the community;

e5. The necessity to the facility of a waterfront location, where applicable;

f6. The availability of alternative locations for the proposed use which are not subject to *flooding* or erosion damage;

g7. The compatibility of the proposed use with existing and anticipated *development*;

h8. The relationship of the proposed use to the comprehensive plan and *floodplain* management program for that area;

i9. The safety of access to the property in times of *flood* for ordinary and emergency vehicles;

j10. 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

k11. The costs of providing governmental services during and after *flood* conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

5. Upon consideration of the factors of subsection (A)(4) of this section and the purposes of this chapter, the hearing examiner may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

6C. The director*city manager* shall maintain the records of all appeal actions and report any *variances* to the Federal Insurance AdministrationEmergency Management Agency upon request.

16.90.070 Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein contained shall prevent the City of Kenmore from taking such other lawful action as is necessary to prevent or remedy any violation. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 7. Formerly 16.40.070.]

16.90.080 Abrogation and greater restrictions.

~~This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. [Ord. 12-0334 § 5 (Exh. 3); Ord. 98-0045 § 8. Formerly 16.40.080.]~~

Relevant Definitions (now in Chapter 18.20; some revised):

~~16.90.040 Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.~~

~~A. "Appeal" means a request for a review of the interpretation of any provision of this chapter or a request for a variance.~~

~~B. "Area of shallow flooding" means a designated AO or AH Zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.~~

~~C. "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter "A" or "V."~~

18.20.230~~D~~. "Base flood" means ~~a~~the flood having a one percent chance of being equaled or exceeded in any given year, often referred to as the "100-year flood." Designation on the FIRM always includes the letter "A" or "V."

18.20.240 "Base flood elevation" means the water surface elevation of the *base flood* in relation to the ~~National Geodetic Vertical Datum of 1929~~North American Vertical Datum 1988.

18.20.245~~E~~. "Basement" means any area of the *building* having its floor below ground level on all sides.

~~F. "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.~~

~~G. "Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone V1 through V30, VE or V.~~

18.20.330 "Buffer," f~~F~~or purposes of *critical areas* regulations, ~~"buffer"~~ means an area contiguous to a *critical area* that is required for the continued maintenance, functioning, and/or structural stability of the *critical area*.

18.20.465 "City" means the City of Kenmore.

18.20.468 "City manager" means the City of Kenmore city manager or his or her designee(s).

18.20.540 "Compensatory storage" means new, excavated storage volume equivalent to any flood storage which is eliminated by building, filling or *grading* within the *floodplain*. For the purpose of this definition, equivalent flood storage capacity is that which is replaced by equal

volume between corresponding one-foot contour intervals which are hydraulically connected to the floodway through their entire depth.

18.20.612 “Critical areas” means any of the following areas or ecosystems: aquifer recharge areas, fish and wildlife habitat areas of importance, frequently flooded areas, *geologically hazardous areas*, *streams*, and *wetlands*, as defined in Chapter 36.70A RCW and this chapter.

18.20.630~~H~~. “Critical facility” means a facility necessary to protect the public health, safety and welfare and which is defined under the occupancy categories of “essential facilities,” “hazardous facilities” and “special occupancy structures” in the International Building Code. Critical facilities also include nursing homes, public roadway bridges, and sites for *hazardous substance* storage or production, not including the temporary storage of consumer products containing *hazardous substances* intended for household use or for retail sale on the *site*.~~for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, or installations which produce, use or store hazardous materials or hazardous waste.~~

18.20.715~~I~~. “Development” means any activity upon the land consisting of construction or alteration of *structures*, earth movement, dredging, dumping, *grading*, filling, mining, removal of any sand, gravel, or minerals, driving of piles, drilling operations, bulkheading, *clearing* of *vegetation*, or other land disturbance. Development includes the storage or use of equipment or materials inconsistent with the existing *use*. Development also includes approvals issued by the *City* that bind land to specific patterns of use, including, but not limited to, subdivisions, short subdivisions, zone changes, *conditional use permits*, and binding site plans. Development does not include the following activities:

A. Interior *building* improvements;

B. Exterior *structure* maintenance activities, including painting and roofing;

C. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; or

D. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; individual utility service connections; and individual cemetery plots in established and approved cemeteries. ~~any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.~~

~~J. “Elevated building” means, for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.~~

~~K. “Existing manufactured home park or subdivision” means a manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.~~

~~L~~18.20.966. “Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the *manufactured homes* are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

18.20.1020 “Federal Emergency Management Agency (FEMA) floodway” means the channel of the *stream* and that portion of the adjoining *floodplain* which is necessary to contain and discharge the *base flood* flow without increasing the *base flood elevation* more than one foot.

~~M~~18.20.1057. “Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

2. The unusual and rapid accumulation of runoff of surface waters from any source.

18.20.1060 “Flood fringe” means that portion of the *floodplain* outside of the *zero-rise floodway* which is covered by floodwaters during the *base flood*, generally associated with standing water rather than rapidly flowing water.

18.20.1070 “Flood hazard areas” means those areas in the *City* subject to inundation by the *base flood* and those areas subject to risk from *channel relocation or stream meander* including, but not limited to, *streams*, lakes, *wetlands* and closed depressions.

18.20.1080~~N~~. “Flood insurance rate map (FIRM)” means the official map on which the Federal ~~Insurance Administration~~Emergency Management Agency has delineated some *flood hazard areas* ~~both the areas of special flood hazards and the risk premium zones applicable to the community~~.

18.20.1090~~O~~. “Flood insurance study ~~for King County~~” means the official report provided by the Federal ~~Insurance Administration~~Emergency Management Agency which includes flood profiles and the *flood insurance rate map*~~, the flood boundary-floodway map, and the water surface elevation of the base flood~~.

~~P. “Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.~~

18.20.1100 “Flood protection elevation” means an elevation which is one foot above the *base flood elevation*.

18.20.1110 “Floodplain” is synonymous with “100 year floodplain” and means the total land area subject to inundation by the *base flood*.

18.20.1120 “Floodproofing” means adaptations which will make a *structure* that is below the *flood protection elevation* substantially impermeable to the passage of water and resistant to hydrostatic and hydrodynamic loads including the impacts of buoyancy.

18.20.1130 “Zero-rise floodway” means the channel of a *stream* and that portion of the adjoining *floodplain* which is necessary to contain and discharge the *base flood* flow without any measurable increase in flood height. A measurable increase in *base flood* height means a calculated upward rise in the *base flood elevation*, equal to or greater than 0.01 foot, resulting from a comparison of existing conditions and changed conditions directly attributable to *development* in the *floodplain*. This definition is broader than that of the *FEMA floodway*, but always includes the *FEMA floodway*. The boundaries of the 100-year *floodplain*, as shown on the *flood insurance study for King County*, are considered the boundaries of the *zero-rise floodway* unless otherwise delineated by a *critical area* special study.

~~Q~~18.20.1673. “Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this article~~chapter found in KMC 16.90.160~~(A)(2)~~.

18.20.1675~~R~~. “Manufactured home” is as defined under WAC 296-150M-0020, including mobile home as defined under WAC 296-150M-0020. The term “manufactured home” does not include a “*recreational vehicle*.”~~means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities.~~

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

~~T. “New construction” means structures for which the “start of construction” commenced on or after the effective date of the ordinance codified in this chapter.~~

~~U. “New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the adopted floodplain management regulations.~~

18.20.2240~~V~~. “Recreational vehicle (RV)” means a vehicle designed primarily for recreational camping, travel or seasonal use which has its own motive power or is mounted on or towed by another vehicle, including but not limited to:

A. Travel trailer;

B. Folding camping trailer;

C. Park trailer;

D. Truck camper;

E. Park trailer;

F. Motor home; and

G. Multi-use vehicle.

~~which is:~~

~~1. Built on a single chassis;~~

~~2. Four hundred square feet or less when measured at the largest horizontal projection;~~

~~3. Designed to be self-propelled or permanently towable by a light duty truck; and~~

~~4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.~~

~~W. "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation of the property or accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.~~

18.20.2930~~X~~. "Structure" means anything permanently constructed in or on the ground, or over the water; excluding *fences* eight feet or less in height, decks less than 18 inches above grade, paved areas, and structural or nonstructural fill~~a walled and roofed building, including a gas or liquid storage tank, that is principally above ground~~. For purposes of the flood hazard area regulations, "structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground.

~~Y~~18.20.2955. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

18.20.2960~~Z~~. "Substantial improvement" means any maintenance, repair, structural modification, addition or other improvement of a *structure*, the cost of which equals or exceeds 50 percent of the market value of the *structure* either before the maintenance, repair, modification or addition is started or before the damage occurred, if the *structure* has been damaged and is being restored

~~any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:~~

~~1. Before the improvement or repair is started; or~~

~~2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.~~

For purposes of the flood hazard area regulations, ~~T~~the term does not~~, however,~~ include either:

~~3~~1. Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

~~4~~2. Any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

18.20.3150~~AA~~. "Variance" means an adjustment in the application of standards of a zoning code to a particular property~~a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter~~.

~~BB. "Water-dependent" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.~~

THIS IS AN ENTIRELY NEW SECTION

Chapter 18.55
CRITICAL AREAS

Sections:

Article XX. Groundwater Susceptibility and Critical Aquifer Recharge Areas

18.55.800 Designation of groundwater susceptibility and critical aquifer recharge areas.

18.55.810 Critical Areas Report.

Article XX. Groundwater Susceptibility and Critical Aquifer Recharge Areas

18.55.800 Designation of groundwater susceptibility and critical aquifer recharge areas.

Groundwater recharge areas play an important role in groundwater quality and the general environmental health of the area in which they are located. Although no critical aquifer recharge areas are designated within the city limits at this time, the City understands the importance of protecting its groundwater resources. For example, groundwater can be an important source of water in City streams and wetlands, particularly during dry summer months, which supports associated vegetation communities and aquatic habitat. Some communities rely on groundwater for irrigation or drinking water. In the City, areas susceptible to groundwater contamination have been designated using the City of Kenmore Groundwater Susceptibility Map, which was developed based on the *Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances* (Ecology, 1998). The map is the result of combining the ratings of a variety of factors for areas throughout the City including: geologic unit (i.e. depositional environment), near surface permeability (based on the county soil map), and depth to groundwater. The map identifies areas with “moderate” or “high” susceptibility to groundwater contamination.

18.55.810 Critical Areas Report.

A. The purpose of a hydrogeologic assessment report is to evaluate actual hydrogeologic conditions and determine a site’s proximity to vulnerable groundwater resources. This information then is used to evaluate the likely impacts of proposed activities and to determine appropriate construction practices, monitoring programs, and other mitigation measures required to ensure achievement of the purpose and intent of these regulations.

B. The information required by the hydrogeologic assessment report should be coordinated with the study and reporting requirements for any other critical areas located on the site.

C. The hydrogeologic assessment report shall be prepared by a qualified professional who is a hydrogeologist, geologist, or engineer licensed in the State of Washington and has experience in preparing hydrogeologic assessments.

D. The City of Kenmore Groundwater Susceptibility Map, referenced under KMC 18.55.800, identifies the level of evaluation required at a particular site within the City.

1. Level One Hydrogeological Assessment – Areas of Moderate Susceptibility.

    a. A level one hydrogeologic assessment shall be required for any of the following non-residential proposed activities at sites located within groundwater susceptibility zones that are rated as “Moderate Susceptibility:”

        i. Activities that divert, alter, or reduce the flow of surface or groundwaters, including dewatering, or otherwise reduce groundwater recharge.

        ii. The storage, handling, treatment, use, production, recycling, or disposal of hazardous substances, other than hazardous household substances used according to the directions specified on the packaging for domestic applications. See RCW 70.105.010.

        iii. The use of injection wells, including on-site septic systems, except those domestic septic systems releasing less than 14,500 gallons of effluent per day and that are limited to a maximum density of one system per acre.

        iv. Any other activity determined by the *city manager* likely to have an adverse impact on groundwater quality or quantity, or on groundwater recharge.

    b. A level one hydrogeologic assessment shall include the following site and development-related information at a minimum:

        i. Information regarding geologic and hydrogeologic characteristics of the site, including the permeability of the unsaturated zone (soils located above the groundwater table) based on existing data.

        ii. Groundwater depth, flow direction, and gradient based on available information.

iii. Location of wells and springs within 1,300 feet of the project area.

iv. Location of other critical areas, including surface waters, within 1,300 feet of the project site.

v. Available historic water quality data for the area to be affected by the proposed activity.

vi. Best Management Practices (BMPs) proposed to be utilized.

2. Level Two Hydrogeologic Assessment – Areas of High Susceptibility.

a. A level two hydrogeologic assessment shall be required for any of the following non-residential, proposed activities at sites located within groundwater susceptibility zones that are rated as “High Susceptibility:”

i. Activities that divert, alter, or reduce the flow of surface or groundwaters, including permanent dewatering that reduces groundwater recharge.

ii. The storage, handling, treatment, use, production, recycling, or disposal of hazardous substances, other than hazardous household substances used according to the directions specified on the packaging for domestic applications. See RCW 70.105.010.

iii. The use of injection wells, including on-site septic systems, except those domestic septic systems releasing less than 14,500 gallons of effluent per day and that are limited to a maximum density of one system per acre.

iv. Any other activity determined by the city manager likely to have an adverse impact on groundwater quality or quantity, or on groundwater recharge.

b. A level two hydrogeologic assessment shall include the following site and proposal-related information at a minimum, in addition to the requirements for a level one hydrogeologic assessment:

i. Historic water quality and elevation data for the area to be affected by the proposed activity compiled for at least the previous five-year period, unless otherwise approved by the *city manager*.

ii. Groundwater monitoring plan provisions.

iii. Discussion of the effects of the proposed project on groundwater quality and quantity, including:

1. Predictive evaluation of groundwater withdrawal effects on nearby wells and surface water features.

2. Predictive evaluation of contaminant transport based on potential releases to groundwater.

iv. Identification of the type and quantities of any hazardous materials that will be stored, handled, treated, used, produced, recycled, or disposed of on the site, including but not limited to materials, such as elevator lift/hydraulic fluid, hazardous materials used during construction, materials used by the building occupants, proposed storage and manufacturing uses, etc.

v. Proposed methods of storing any of the above substances, including containment methods to be used during construction and/or use of the proposed facility.

vi. Proposed plan for implementing protection standards during construction.

vii. A spill prevention, control and countermeasure (SPCC) plan that identifies equipment and/or structures that could fail, resulting in an impact. Spill plans shall include provisions for regular inspection, repair, and replacement of structures and equipment that could fail.

viii. A discussion of past environmental investigations, sampling, spills, or incidents that may have resulted in or contributed to contaminated soil or groundwater at the site. Attach copies of all historical and current reports, and sampling results.

SHORELINE SUB-ELEMENT

SHORELINE PURPOSE, INTENT AND PRINCIPLES

INTRODUCTION

Washington's Shoreline Management Act (SMA) was passed by the State Legislature in 1971 and created in response to a growing concern among residents of the state that serious and permanent damage was being done to shorelines by unplanned and uncoordinated development. The goal of the SMA was "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." While protecting shoreline resources by regulating development, the SMA is also intended to provide for appropriate shoreline use by encouraging land uses that enhance and conserve shoreline functions and values.

The primary responsibility for administering the SMA is assigned to local governments through local shoreline master programs (SMPs), adopted under guidelines established by Ecology. The guidelines (WAC 173-26) establish goals and policies that provide a framework for development standards and use regulations in the shoreline. The State legislature established new guidelines in 2003 requiring all cities and counties to update shoreline policies and regulations. The new shoreline guidelines set a higher level of environmental protection for shorelines in the state and a goal of "no net loss" of shoreline function. Local SMPs are to be based on these State guidelines and tailored to the specific conditions and needs of individual communities. The SMP is also meant to be a comprehensive vision of how the shoreline area will be managed over time.

Kenmore adopted King County's original 1978 SMP when the City incorporated in 1998. ~~This~~The 2012 Shoreline Master Program update was drafted to meet State guidelines and develop a program ~~that is~~ more tailored to the City's current shoreline conditions and land use plans. In 2019, the City's SMP was updated as required by State law.

EXISTING CONDITIONS

The existing conditions of Kenmore's shorelines were evaluated in the Shoreline Inventory and Analysis (2008). That evaluation included a description of ecosystem and watershed processes, the physical environment and water quality of each water body, biological resources, cultural resources, land use and public access.

SHORELINE MANAGEMENT PURPOSE AND INTENT

These policies briefly define the overall purpose and intent of Kenmore's Shoreline Master Program and reference the City's regulatory authority to manage shorelines of the state. The language in this ~~new~~ section is entirely based on WAC 173-26 and RCW 90.58.020.

Authority

Authority for enactment and administration of this Program is the Shoreline Management Act of 1971, Chapter 90.58, Revised Code of Washington (RCW), also referred to herein as "the Act."

Purpose and Intent

The purpose of this Program is: (A) to promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of City of Kenmore shorelines; (B) to manage shorelines in a positive, effective, and equitable manner; and (~~3~~C) to further assume and carry out the responsibilities established by the Act for the City of Kenmore, and to adopt and foster the following policy contained in RCW 90.58.020 for shorelines of the State:

> It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.
>
> In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent upon use of the State's shoreline. Alterations of the natural condition of the shorelines of the State, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including, but not limited to, parks, marinas, piers, and other improvements facilitating public access to shorelines of the State, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the State and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the State.
>
> Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.
>
> Permitted uses in the shorelines of the State shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

Governing Principles

The following principles along with the policy statements of RCW 90.58.020 establish basic concepts that underpin the goals, policies and regulations of this Shoreline Master Program.

A. Any inconsistencies between this Program and the Act must be resolved in accordance with the Act.

B. The policies of this Program may be achieved by diverse means, one of which is regulation. Other means, authorized by the Act, include but are not limited to: acquisition of lands and/or easements by

purchase or gift, incentive programs, and implementation of capital facility and/or non-structural programs.

C. Protecting the shoreline environment is an essential statewide policy goal, consistent with other policy goals. Permitted and/or exempt development; actions taken prior to the Act's adoption; and/or unregulated activities can impair shoreline ecological processes and functions. This Program protects shoreline ecology from such impairments in the following ways:

1. By using a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by shorelines.

2. By including policies and regulations that require mitigation of adverse impacts in a manner that ensures no net loss of shoreline ecological functions. The required mitigation shall include avoidance, minimization, and compensation of impacts in accordance with the policies and regulations for mitigation sequencing in KMC 18.55.210. This Program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of the date of adoption of this Program.

3. By including policies and regulations to address cumulative impacts, including ensuring that the cumulative effect of exempt development will not cause a net loss of shoreline ecological functions, and by fairly allocating the burden of addressing such impacts among development opportunities.

4. By including regulations and regulatory incentives designed to protect shoreline ecological functions, and restore impaired ecological functions where such opportunities have been identified, consistent with the City of Kenmore Shoreline Restoration Plan.

D. Regulation of private property – to implement Program goals such as public access and protection of ecological functions and processes – must be consistent with all relevant constitutional and other legal limitations. These include, but are not limited to, civil rights guaranteed by the U.S. and State constitutions, recent federal and state case law, and state statutes.

E. Regulatory or administrative actions contained herein must be implemented consistent with the Public Trust Doctrine and other applicable legal principles as appropriate and must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.

F. The regulatory provisions of this Program are limited to shorelines of the state, whereas the Shoreline Restoration Plan may extend beyond the designated shoreline boundaries.

G. The policies and regulations established by the Program must be integrated and coordinated with those policies and rules of the City of Kenmore Comprehensive Plan and development regulations adopted under the Growth Management Act (GMA).

H. Consistent with the policy and use preferences of RCW 90.58.020, the City of Kenmore should balance the various policy goals of this Program giving consideration to other relevant local, state, and federal regulatory and non-regulatory programs.

SHORELINE JURISDICTION

This section provides an overview of Kenmore's shoreline jurisdiction, the area where the Shoreline Management Act applies. "Shorelines" means lakes greater than 20 acres and rivers and streams with a minimum of twenty cubic feet per second mean annual flow, including the entire water body waterward from the ordinary high water mark (OHWM) from its centerline or point, all water below the surface, and associated shorelands (RCW 90.58.030(2)(d)). Under the SMA, the shoreline jurisdiction includes areas that are 200 feet landward of the ~~ordinary high water mark (~~OHWM~~)~~ of shorelines and their adjacent shorelands, defined in Kenmore as the upland area within 200 feet of the OHWM, as well as any associated wetlands and floodplains. Three waterbodies in Kenmore (Lake Washington, the Sammamish River, and Swamp Creek) are regulated under the SMA and the City's Shoreline Master Program (SMP). Lake Washington is the only shoreline designated as a "shoreline of statewide significance" under the SMA [RCW 90.58.030(2)e].

The Kenmore shoreline jurisdiction is shown on the Shoreline Environment Designations Map, **Figure LU-12**.

SHORELINES OF STATEWIDE SIGNIFICANCE

This section includes principles and policies for managing shorelines of statewide significance. In the City of Kenmore, shorelines of statewide significance include only the Lake Washington shoreline, as it is a lake with a surface acreage over 1,000 acres. The Shoreline Management Act sets specific use priorities for these shorelines and calls for a higher level of effort in implementing policy goals. The state legislature declared that the public interest shall be paramount in the management of shorelines of statewide significance.

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

Management goals for shorelines of statewide significance were ranked in order of preference by the State (i.e., the first goal must be given priority over all subsequent goals), as listed in the following policy.

Policy LU-16.1.~~2~~1 In developing and implementing its Shoreline Master Program for Lake Washington, the City of Kenmore shall give preference, in the following order, to uses that:

1. Recognize and protect the statewide interest over local interest;
2. Preserve the natural character of the shoreline;
3. Result in long-term over short-term benefit;
4. Protect the resources and ecology of the shoreline;
5. Increase public access to publicly owned areas of the shorelines;
6. Increase recreational opportunities for the public in the shoreline; and
7. Provide for any other element as defined in RCW 90.58.100.

SHORELINE ENVIRONMENT DESIGNATIONS

The Kenmore shoreline environment designations are shown on the Shoreline Environment Designations Map, **Figure LU-12**.

GOAL 17. IMPLEMENT THE OBJECTIVES, PURPOSE, DESIGNATION CRITERIA AND POLICIES FOR EACH SHORELINE ENVIRONMENT.

17.1 Downtown Waterfront Environment

Purpose: The purpose of the Downtown Waterfront Environment is to provide for mixed urban water-enjoyment uses, public access and recreation while protecting existing ecological functions.

Designation Criteria: The shoreline along the downtown waterfront is to be assigned the Downtown Waterfront Environment designation.

Management Policies

Policy LU-17.1.1 Emphasis should be given to developing visual and physical public access to the shoreline in the Downtown Waterfront Environment.

Policy LU-17.1.2 Multiple uses of the shoreline should be encouraged.

Policy LU-17.1.3 Redevelopment and renewal should be encouraged in order to accommodate future users and capitalize on the shoreline resource.

Policy LU-17.1.4 Aesthetic improvement should be actively promoted by means of sign control regulations, architectural design standards, appropriate development siting, landscaping requirements (such as encouraging shoreline revegetation), and other development standards.

Policy LU-17.1.5 Development should not cause adverse impacts to existing ecological functions. Any adverse impacts shall be mitigated. Where applicable, new development shall include environmental cleanup of the shoreline in accordance with relevant state and federal laws.

Policy LU-17.1.6 Water-dependent, water-related and water-enjoyment uses should be a priority over other uses in this Eenvironment. Non-water-oriented uses should not be allowed except as part of mixed-use developments that include water-dependent and water-related uses. A non-water-oriented development can be considered water-oriented if public access for a significant number of persons is provided.

Policy LU-17.1.7 Encourage redevelopment of industrial sites into mixed urban uses, including public access, recreation, residential ~~uses~~, and commercial uses.

Policy LU-17.1.8 Identify strategic shoreline public access points and pursue linkages between public spaces along the waterfront~~, including trails, boardwalks, and waterfront transportation~~. The Downtown ~~Circulation Map~~Sub-Element, Transportation Element and the ~~Kenmore Trails Map~~Parks, Recreation and Open Space Plan

~~shall~~ provide guidance for strategic shoreline public access points and linkages and should be used in regulating the location of public access improvements.

17.2 Shoreline Residential Environment

Purpose: The purpose of the Shoreline Residential Environment is to accommodate residential development and appurtenant structures that are consistent with ~~this chapter~~the Shoreline Sub-Element. An additional purpose is to provide appropriate public access and recreational uses within new multifamily developments or on public property.

Designation Criteria: The Shoreline Residential Environment designation should be assigned to shoreline areas if they are predominantly single-family or multifamily residential development or are planned and platted for residential development, and the shoreline areas do not meet the criteria for other designations.

Management Policies

Policy LU-17.2.1	Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set considering the environmental limitations and sensitivity of the shoreline area and the level of infrastructure and services available.
Policy LU-17.2.2	Multifamily and multi-lot residential and recreational developments should provide public access and community recreational facilities.
Policy LU-17.2.3	Access, utilities, and public services should be available and adequate to serve existing needs and planned future development.

17.3 Urban Conservancy Environment

Purpose: The purpose of the Urban Conservancy Environment is to protect and restore ecological functions of open space, floodplains and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

Designation Criteria: An Urban Conservancy Environment designation is assigned to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring ecological functions of the area ~~and that are not generally suitable for water-dependent uses if any of the following characteristics apply~~. This designation should be applied when:

(A) The shoreline ~~includes wetlands or exceptional riparian corridor that should not be more intensively developed~~is suitable for water-related or water-enjoyment uses;

(B) The shoreline ~~is in public ownership and has been altered or in public ownership that is small in size and not adjacent to other publicly owned properties~~includes open space, flood plain or other sensitive areas that should not be more intensively developed;

(C) The shoreline has been altered but retains important ecological functions;

(D) The shoreline has potential for ecological restoration or is a restoration priority; or

(E) The shoreline has potential for development that is compatible with ecological restoration.

Management Policies

Policy LU-17.3.1	Uses that preserve the natural character of the area or promote preservation of open space, floodplain or critical areas either directly or over the long term should be the primary allowed uses in the Urban Conservancy Environment. Uses that result in the restoration of ecological functions are allowed if the use is otherwise compatible with the purpose of the ~~e~~Environment.
Policy LU-17.3.2	New development should be restricted to those which are compatible with the natural and biophysical limitations of the land and water.
Policy LU-17.3.3	Commercial and industrial uses are generally discouraged, but commercial uses consistent with underlying zoning may be allowed if accompanied by ecological restoration and public access enhancement.
Policy LU-17.3.4	Diverse public access and recreational activities which are compatible with the Urban Conservancy Environment should be encouraged when adverse ecological impacts can be mitigated.
Policy LU-17.3.5	Development which would be a hazard to public health and safety or would materially interfere with existing ecological processes and functions should not be allowed.
Policy LU-17.3.6	Water-oriented uses should be given priority over non-water-oriented uses. For shoreline areas in the Urban Conservancy Environment adjacent to Lake Washington and the Sammamish River, water-dependent uses should be given highest priority.
Policy LU-17.3.7	Standards for residential density and development shall be set considering the environmental limitations and sensitivity of the shoreline area and the level of infrastructure and services available
Policy LU-17.3.8	New structural flood control devices should be strongly discouraged in the Urban Conservancy Environment.
Policy LU-17.3.9	Developments should not be allowed unless connected to a sewer line.
Policy LU-17.3.10	Developments should be regulated so as to minimize the following: erosion or sedimentation, the adverse impact on aquatic habitats and substantial degradation of the existing character of the Urban Conservancy Environment.
Policy LU-17.3.11	Standards should be established for shoreline stabilization measures, vegetation conservation, water quality and shoreline modifications within the Urban Conservancy Environment.
Policy LU-17.3.12	The protection and restoration of stream 0056 where it flows into Lake Washington should be prioritized.

~~Policy LU-17.3.13 Because the parcels located to the north of Saint Edward State Park and designated Urban Conservancy are largely ecologically intact, if one or more of those parcels are acquired by a public agency for open space purposes, the City should consider redesignating those parcels as Natural if they meet applicable criteria.~~

17.4 Natural Environment

Purpose: The purpose of the Natural Environment is to protect public shoreline areas that include ecologically intact or minimally altered shorelines. Only low intensity uses are to be allowed in this ~~e~~Environment to maintain existing ecological processes and functions.

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

(A) A relatively large, contiguous area of the shoreline is in public ownership and ecologically intact or minimally altered;

(B) The shoreline represents ecological processes or functions that provide educational or scientific opportunities; or

(C) The shoreline is unable to support active uses or development without adverse impacts to ecological functions.

Management Policies

Policy LU-17.4.1 The Natural Environment should remain free from development or uses that would degrade the ecological functions or adversely affect their natural character.

Policy LU-17.4.2 The intensity and type of uses permitted should be restricted in the Natural Environment to maintain the natural systems and resources in their natural condition. The following new uses should not be allowed in the Natural Environment: commercial uses, industrial uses, non-water-oriented recreation, and roads, utility corridors, and parking areas that can be located outside of the Natural Environment.

Policy LU-17.4.3 Limited access should be allowed to areas in the Natural Environment.

Policy LU-17.4.4 Uses that are consumptive of the physical and biological resources or that may degrade the actual or potential value of the Natural Environment should be prohibited.

Policy LU-17.4.5 Uses and activities in locations adjacent to the Natural Environment should be strictly regulated to ensure that the integrity of the shoreline ecology is not compromised.

Policy LU-17.4.6 Scientific, historical, cultural and educational research uses and low-intensity water-oriented recreational access uses may be allowed provided that no adverse impact on the area will result.

Policy LU-17.4.7 New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. The subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely affects ecological functions should not be allowed.

17.5 Aquatic Environment

Purpose: The purpose of the Aquatic Environment is to protect, restore, and manage the unique characteristics and resources of navigable areas waterward of the ordinary high-water mark on the Sammamish River and Lake Washington.

Designation Criteria: Lake Washington and the Sammamish River below (waterward of) the ordinary high water mark.

Management Policies

Policy LU-17.5.1 New over-water structures should be limited, with priority given to water-dependent uses, public access and ecological restoration.

Policy LU-17.5.2 The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

Policy LU-17.5.3 To reduce the adverse impacts of shoreline development and increase effective use of water resources, multi-purpose use of over-water facilities should be encouraged.

Policy LU-17.5.4 All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider any adverse impacts to public views, and to allow for the safe unobstructed passage of fish and wildlife, particularly those species dependent on migration.

Policy LU-17.5.5 Uses that adversely affect the ecological functions of critical freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020 and impacts shall be mitigated.

Policy LU-17.5.6 Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrologic conditions.

GENERAL SHORELINE MANAGEMENT POLICIES

General shoreline management policies apply regardless of environment designation unless specifically stated within the policy, and are intended to provide general guidance in the management of shorelines. These general policies are organized by shoreline element.

18. Economic Development

GOAL 18.1. SHORELINE DEPENDENT DEVELOPMENT SHOULD PROVIDE LONG RANGE ECONOMIC BENEFITS WHILE ENSURING COMPATIBILITY WITH ENVIRONMENTAL AND LAND USE GOALS.

Policy LU-18.1.1 Kenmore should plan for the location and design of ~~industries, industrial projects of statewide significance,~~ transportation facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state.

Policy LU-18.1.2 New economic development in the shoreline should be encouraged to ~~cluster~~locate in ~~areas of~~ the Downtown Waterfront ~~e~~Environment ~~that can be upgraded and redeveloped~~.

Policy LU-18.1.3 Economic development should be designed to minimize actual shoreline space occupied.

Policy LU-18.1.4 Economic development in the shoreline involving high intensity commercial land use should be confined to the Downtown Waterfront.

Policy LU-18.1.5 Cooperative use of docks, parking and storage facilities should be encouraged among commercial uses along the shoreline.

GOAL 18.2. SHORELINE ECONOMIC DEVELOPMENT SHOULD PROVIDE PUBLIC PHYSICAL AND VISUAL AVAILABILITY TO THE WATER, CONSISTENT WITH PUBLIC HEALTH AND SAFETY.

Policy LU-18.2.1 Overlook points, historic areas and points of public access to the shoreline should be considered in commercial site planning.

Policy LU-18.2.2 Economic development in the shoreline that utilizes public land should be designed to include public viewpoints, waterfront restaurants, and similar public facilities.

Policy LU-18.2.3 Structures placed in the water for economic purposes should be designed to prevent adverse impacts to shoreline ecological processes and functions.

Policy LU-18.2.4 Economic development in the shoreline should be prohibited in identified environmentally critical areas.

GOAL 18.3. WHENEVER FEASIBLE, WATERFRONT ECONOMIC DEVELOPMENT SITES SHOULD BE LOCATED IN AREAS THAT ARE ALREADY DEVELOPED WITH SIMILAR USES AND PLANNED SO AS TO PROVIDE MULTIPLE USES OF THE SHORELINES OF THE STATE.

Policy LU-18.3.1 Consistent with public safety, waterfront ~~industrial~~ developments should be encouraged to provide ~~fishing piers, boat ramps and other facilities~~public access and water-oriented recreation.

Policy LU-18.3.2 In siting economic development in the shoreline, water-dependent uses should be given priority over water-oriented uses.

Policy LU-18.3.4 To support the long-range economic base in Kenmore, shoreline economic development should include mixed urban uses, and shoreline public access and recreation should be encouraged.

GOAL 18.4. PRIORITY SHOULD BE GIVEN TO THOSE SHORELINE ECONOMIC DEVELOPMENTS WHICH MAINTAIN OPTIONS FOR FUTURE USERS OF THE WATER.

Policy LU-18.4.1 Development of commercial and recreational fisheries should be encouraged through measures to protect and restore fish habitat and provision for boating facilities.

Policy LU-18.4.2 Mining, dredging, channelizing or filling of shoreline should be discouraged.

Policy LU-18.4.3 Priority should be given shoreline economic development of renewable over non-renewable resources.

Policy LU-18.4.4 In order to ensure that treaty rights are respected, public notice of application should be provided to affected tribes on all projects requiring general public notice.

19. Public Access, Recreation and Views and Aesthetics

Public Access

GOAL 19.1. INCREASE THE ABILITY OF THE GENERAL PUBLIC TO REACH, TOUCH AND ENJOY THE WATER'S EDGE, TO TRAVEL ON THE WATERS OF THE STATE, AND TO VIEW THE WATER AND THE SHORELINE FROM ADJACENT LOCATIONS, PROVIDED THAT PRIVATE PROPERTY RIGHTS, PUBLIC SAFETY AND SHORELINE ECOLOGICAL PROCESSES AND FUNCTIONS ARE PROTECTED CONSISTENT WITH THE U.S. AND STATE CONSTITUTIONS, STATE CASE LAW, AND STATE STATUTES.

Policy LU-19.1.1 Development for the purpose of public access should respect and protect the enjoyment of private property rights along shorelines.

Policy LU-19.1.2 Shoreline public access areas should be planned to provide for ancillary facilities such as parking and sanitation when appropriate.

Policy LU-19.1.3 Shoreline public access and ancillary facilities should be designed and developed to provide adequate protection for adjacent private properties.

Policy LU-19.1.4 Appropriate signs should be used to designate publicly–owned shorelines and designated public access on public shorelines.

Policy LU-19.1.5 Public access to and along the water's edge should be available in publicly owned shorelines that are tolerant of human activity.

GOAL 19.2. PUBLIC ACCESS AND RECREATION SITES AND FACILITIES SHOULD BE WELL-MAINTAINED AND OPERATED.

Policy LU-19.2.1 Public access should be policed and improved consistent with the planned intensity of recreational use.

Policy LU-19.2.2 Shoreline public access should be limited to low-intensity, passive recreation in the Natural and Urban Conservancy ~~e~~Environments.

GOAL 19.3. PRIORITY FOR ACCESS ACQUISITION SHOULD CONSIDER RESOURCE DESIRABILITY, AVAILABILITY AND PROXIMITY OF POPULATION.

Policy LU-19.3.1 Where appropriate, improve, pursue or develop shoreline access, including, but not limited to, open space, boat launches, fishing facilities, trails, and streetscaping on publicly owned shorelands consistent with the Parks, ~~and~~ Recreation and Open Space~~Master~~ Plan, Downtown Sub-Element and Transportation Element.

GOAL 19.4. PHYSICAL OR VISUAL ACCESS TO SHORELINES SHOULD BE REQUIRED AS A CONDITION OF APPROVAL FOR SHORELINE DEVELOPMENT ACTIVITIES COMMENSURATE WITH THE ADVERSE IMPACTS OF NEW MULTI-FAMILY AND COMMERCIAL SHORELINE DEVELOPMENT AND THE CORRESPONDING BENEFIT TO THE PUBLIC OF SUCH DEVELOPMENT, CONSISTENT WITH CONSTITUTIONAL LIMITATIONS.

Policy LU-19.4.1 The City should provide incentives to encourage multi-family and commercial private property owners to provide public shoreline access.

Policy LU-19.4.2 Public pedestrian easements should be required in future shoreline land use actions whenever shoreline features are appropriate for public use.

Policy LU-19.4.3 Shorelines of the state that include but are not limited to any of the following conditions should be considered for pedestrian easements:

a. Where a proposed trail in the ~~Kenmore Trail System~~Parks, Recreation and Open Space Plan, ~~or~~ Downtown ~~Plan Circulation improvement~~Sub-Element or Transportation Element is planned along the shoreline.

b. Areas presently being legally used or historically having been legally used by the public along the shoreline for access.

Policy LU-19.4.4 Public access opportunities identified in the Shoreline Inventory and Characterization should be pursued as feasible over time to increase and improve public access to the shoreline.

GOAL 19.5. PUBLIC ACCESS TO SHORELINES OF THE STATE SHOULD BE DEVELOPED IN A WIDE RANGE OF LOCATIONS AND SHOULD BE OPEN TO ALL PEOPLE.

Policy LU-19.5.1 Viewpoints, lookouts, and vistas of shorelines of the state and wetlands should be publicly accessible.

Policy LU-19.5.2 Where appropriate, utility and transportation rights-of-way on the shoreline should be made available for public access and use.

Policy LU-19.5.3 Publicly-owned street ends that abut the shoreline should be retained or reclaimed for public access.

Policy LU-19.5.4 Shoreline recreational facilities and other public access points should be connected by trails, bicycle pathways and other access links where appropriate, as consistent with the Parks, ~~and~~ Recreation ~~Master~~ and Open Space Plan ~~(2003),~~ ~~and~~ Downtown ~~Plan~~Sub-Element and Transportation Element.

Policy LU-19.5.5 Public access points should be of a nature and scale that would be compatible with adjacent land uses, water-dependent uses, navigation and protection of natural features, including aquatic habitat.

Policy LU-19.5.6 Public access should respect and protect ecological processes and functions and aesthetic values in the shorelines of the state.

Policy LU-19.5.7 Environmentally critical areas in shoreline areas should be retained as open space. Access and use should be ~~restricted or prohibited such that there~~allowed where there is no net loss of shoreline ecological processes and functions.

GOAL 19.6. PROVIDE FOR THE PRESERVATION AND EXPANSION OF SHORELINE-DEPENDENT AND WATER-ORIENTED RECREATION OPPORTUNITIES THAT FACILITATE THE PUBLIC'S ABILITY TO ENJOY THE PHYSICAL AND AESTHETIC QUALITIES OF THE SHORELINE THROUGH PARKS, PUBLIC ACCESS TO BEACHES, BICYCLE AND PEDESTRIAN TRAILS, VIEWPOINTS, AND OTHER RECREATIONAL AMENITIES.

GOAL 19.7. AREAS CONTAINING SPECIAL SHORELINE RECREATION QUALITIES NOT EASILY DUPLICATED SHOULD BE AVAILABLE FOR PUBLIC USE AND ENJOYMENT.

Policy LU-19.7.1 Opportunities should be provided for the public to understand natural shoreline processes and experience natural resource features in diverse forms of water-oriented recreation.

Recreation

GOAL 19.8. SHORELINE RECREATIONAL MANAGEMENT AND DEVELOPMENT SHOULD PROTECT SHORELINE ECOLOGICAL PROCESSES AND FUNCTIONS.

Policy LU-19.8.1 Low-intensity recreational uses should be allowed along intact shorelines; service facilities such as ~~footpaths, periphery car parks~~parking lots and adequate sanitary facilities should only be allowed where appropriate.

Policy LU-19.8.2 Already popular beaches and other predominantly undeveloped shorelines should be available and designated as medium-intensity recreational use areas to be free from expansive development; intensity of use should be consistent with the protection of shoreline ecological processes and functions.

Policy LU-19.8.3 Small or linear portions of the shoreline in public ownership that are suitable for recreational purposes should be made available for variable intensities of use, which may include vista points, pedestrian walkways, water entry points, street-ends, and shoreline areas adjacent to waterfront roads.

Policy LU-19.8.4 Overall design and development in shoreline recreational areas should be responsive to the site characteristics of those areas and be consistent with the level of use in the area concerned.

Policy LU-19.8.5 Non-water-oriented recreational facility development should be located inland away from the water's edge except where appropriate in the Downtown Waterfront eEnvironment. ~~In the Downtown Waterfront environment, non-water dependent recreation facilities such as a children's play area or picnic tables may be appropriate near the water on the inner harbor area and may be allowed as part of an overall development providing substantial public access and other shoreline improvements.~~

GOAL 19.9. THE PROVISION OF ADEQUATE PUBLIC SHORELINE RECREATION LANDS SHOULD BE BASED ON AN ACQUISITION PLAN WITH CLEAR PUBLIC INTENT.

GOAL 19.10. A BALANCED VARIETY OF RECREATIONAL OPPORTUNITIES SHOULD BE PROVIDED REGIONALLY FOR PEOPLE OF DIFFERENT AGES, HEALTH, FAMILY STATUS, AND FINANCIAL ABILITY.

Policy LU-19.10.1 Appropriate specialized recreation facilities should be provided for ~~the handicapped~~those with disabilities or others who might need them.

Policy LU-19.10.2 Shoreline recreation areas should provide opportunities for different use intensities ranging from low (solitude) to high (many people).

Policy LU-19.10.3 Opportunities for shoreline recreational experiences should include a wide range of accessibility and duration of use.

Policy LU-19.10.3.5 Shoreline recreational experiences should include a wide range of different areas from remote-outdoor undeveloped areas to highly developed indoor-outdoor areas.

Policy LU-19.10.4 Recreational development should meet the demands of population growth consistent with the protection of shoreline ecological processes and functions.

Policy LU-19.10.5 Encourage private and public investment in recreation facilities.

Policy LU-19.10.6 Locate, design, and operate recreational development in a manner that minimizes adverse effects on adjacent properties as well as other social, recreational, or economic activities.

Views and Aesthetics

GOAL 19.11. SCENIC, AESTHETIC AND ECOLOGICAL QUALITIES OF NATURAL AND DEVELOPED SHORELINES SHOULD BE PRESERVED AS VALUABLE RESOURCES.

Policy LU-19.11.1 In shoreline areas, the natural topography should not be substantially altered.

Policy LU-19.11.2 Setbacks should be established for new development and redevelopment in the shoreline jurisdiction to minimize adverse impacts to views of the water by the public and adjacent uses and to protect the visual quality of views of the shoreline.

Policy LU-19.11.3 Shoreline structures should be sited and designed to minimize view obstruction and should be visually compatible with the shoreline character.

Policy LU-19.11.4 Public viewing and interpretation should be encouraged at or near ~~industrial,~~ commercial~~,~~ and governmental shoreline development when consistent with security and public safety.

20. Circulation

GOAL 20.1. CIRCULATION SYSTEMS IN SHORELINE AREAS SHOULD BE LIMITED TO THOSE THAT ARE SHORELINE DEPENDENT, THOSE THAT WOULD SERVE SHORELINE-DEPENDENT USES, AND THOSE THAT WOULD PROTECT SHORELINE ECOLOGICAL PROCESSES AND FUNCTIONS.

GOAL 20.2 NEW SURFACE TRANSPORTATION DEVELOPMENT SHOULD BE DESIGNED TO PROVIDE THE BEST POSSIBLE SERVICE WITH THE LEAST POSSIBLE INFRINGEMENT UPON THE SHORELINE ENVIRONMENT. ANY ADVERSE IMPACTS TO SHORELINE ECOLOGICAL PROCESSES AND FUNCTIONS SHOULD BE MINIMIZED AND MITIGATED.

Policy LU- 20.2.1 New transportation facilities and improvements to existing facilities that substantially increase levels of air, noise, odor, visual or water pollution should be discouraged.

Policy LU- 20.2.2 Transportation corridors should be designed to harmonize with the topography and other natural characteristics of the shoreline though which they traverse.

Policy LU- 20.2.3 Surface transportation facilities in shoreline areas should be set back from the ordinary high water mark far enough to make unnecessary such protective measures as bank stabilization, landfill, bulkheads, groins, jetties or substantial site regrade.

Policy LU- 20.2.4 New transportation developments in shoreline areas should provide turnout areas for scenic stops and off-road rest areas where the topography, view and natural features warrant.

Policy LU- 20.2.5 Shoreline roadway corridors with historic significance or great aesthetic quality should be retained and maintained for those characteristics.

Policy LU- 20.2.6 The City should encourage new transportation facilities crossing lakes, streams, rivers or wetlands to locate in existing corridors except where any adverse impact can be minimized by selecting an alternate corridor.

GOAL 20.3. SHORELINE CIRCULATION SYSTEMS SHOULD ENCOURAGE ALTERNATIVE ROUTES AND MODES OF TRAVEL.

Policy LU- 20.3.1 Future development and maintenance of ferry services on Lake Washington should be encouraged in the Downtown Waterfront ~~e~~Environment, and integrated with the overall transportation system.

Policy LU- 20.3.2 Circulation routes should provide for non-motorized means of travel.

Policy LU- 20.3.3 The City should develop a public trail system along the north shore of the Sammamish River and through the Downtown Waterfront ~~shoreline e~~Environment on Lake Washington, as consistent with the Downtown ~~Plan~~Sub-Element, the Transportation Element ~~(2003)~~ and the Parks, Recreation and Open Space Plan.

GOAL 20.4. CIRCULATION SYSTEMS SHOULD BE LOCATED AND ATTRACTIVELY DESIGNED SO AS NOT TO UNNECESSARILY OR UNREASONABLY REDUCE THE BENEFITS DERIVED FROM PRIVATE PROPERTY.

Policy LU- 20.4.1 Motorized vehicular traffic on beaches and other natural shoreline areas should be prohibited.

Policy LU- 20.4.2 Transportation facilities providing access to shoreline development should be planned and designated in scale and character with the use proposed and should consider the future economic and social needs of the community consistent with the policies of the Kenmore SMP.

GOAL 20.5. CIRCULATION SYSTEMS DISRUPTIVE TO PUBLIC SHORELINE ACCESS AND OTHER SHORELINE USES SHOULD BE RELOCATED WHERE FEASIBLE.

Policy LU- 20.5.1 Transportation elements disruptive to the shoreline character that cannot feasibly be relocated should be conditioned or landscaped to minimize visual and noise pollution.

Policy LU- 20.5.2 Kenmore should promote and encourage modes of transportation that consume the least amount of energy and produce the least pollution while providing the best efficiency.

21. Conservation and Protection

GOAL 21.1. PRESERVE OR DEVELOP SHORELINES, ADJACENT UPLANDS, AND ADJACENT WATER AREAS IN A MANNER THAT ENSURES NO NET LOSS OF SHORELINE ECOLOGICAL PROCESSES AND FUNCTIONS.

Policy LU-21.1.1 Kenmore should support efforts to improve stream conditions and fish habitat, including re-establishing access to spawning and rearing areas.

Policy LU-21.1.2 Buffers or setbacks should be established for new development and redevelopment in the shoreline jurisdiction to protect existing shoreline ecological processes and functions and to provide space for shoreline vegetation preservation and enhancement.

Policy LU-21.1.3 Where appropriate, land and water uses should be located so that they do not interfere with the restoration or enhancement of shoreline ecological processes and functions.

Policy LU-21.1.4 Environmentally critical areas in the shoreline, including critical freshwater habitats, should be protected from uses or activities that will have adverse effects.

Policy LU-21.1.5 Kenmore should seek and use any available monitoring data on shoreline conditions in regulating development and making decisions that affect shoreline use, including, but not limited to, water quality monitoring by King County and the Department of Ecology, and monitoring data from hazardous material cleanup sites. The most recent data regarding a cleanup site should be obtained prior to issuing any permits for development on such sites.

GOAL 21.2. ENSURE PRESERVATION OF UNIQUE AND NON-RENEWABLE NATURAL RESOURCES AND ENSURE CONSERVATION OF RENEWABLE NATURAL RESOURCES FOR THE BENEFIT OF EXISTING AND FUTURE GENERATIONS AND THE PUBLIC INTEREST.

Policy LU-21.2.1 Shorelines and shorelands that are of unique or valuable natural character should be acquired and preserved wherever feasible.

Policy LU-21.2.2 Kenmore should encourage the conservation of fish, wildlife, and other renewable resources.

Policy LU-21.2.3 All future shoreline development should be designed and sited to prevent adverse impacts on the natural shoreline environment. Adverse impacts shall be mitigated to ensure no net loss of shoreline ecological functions.

Policy LU-21.2.4 Shoreline activities, and developments should be planned, constructed and operated to maintain or enhance the quality of air, soil, and water on the shorelines.

~~Policy LU-21.2.5 Consumptive and extractive industries should allow the natural shoreline systems to function with a minimum of disruption during their operations and should return the shoreline to as near natural a state as possible upon their completion.~~

Policy LU-21.2.~~6~~5 Any structure or activity in or near the water should be constructed in such a way that it will prevent adverse physical or chemical effects on water quality, vegetation, fish, or wildlife.

Policy LU-21.2.~~7~~6 Uses or activities that degrade the natural resources of the shoreline should not be allowed.

Policy LU-21.2.~~8~~7 Some uses or activities may be allowed only when compensatory habitat enhancement is provided as mitigation. When considering compensatory habitat enhancement as mitigation for impacts from new structures, such as when a reduced buffer or a non-water-dependent use is requested, the enhancement should be proportional to the degree of impact of the new structure, and take into account the degree to which the existing buffer has already been compromised. Enhancement should focus on restoring shoreline ecological functions that are most critical and that have been most diminished in the Kenmore shoreline. ~~In approving any compensatory habitat enhancement plan, the Director shall consider the changes in surface water runoff rates and water quality (such as through increased impervious area), habitat structure (such as loss or alteration of vegetation), and habitat quality (such as from lighting, noise, or activities) that the project would cause. Enhancements should generally focus on reducing or offsetting project impacts but may focus on restoring other critical ecological functions in the shoreline that have been lost or diminished (such as placement of large woody debris in water or restoring shallow water habitat). The Director may determine whether an enhancement that provides a broader benefit may be substituted for one that would offset the impacts of an individual project. The Director may deny a request to allow intrusion into a buffer or for development of a non-water-dependent use if the enhancement proposed does not fully mitigate the impacts of the project and provide a sufficient broader benefit.~~

Critical Areas

GOAL 21.3. THE KENMORE SHORELINE MASTER PROGRAM AND IMPLEMENTING REGULATIONS SHALL PROVIDE A LEVEL OF

PROTECTION FOR CRITICAL AREAS AT LEAST EQUAL TO THAT PROVIDED BY KENMORE'S CRITICAL AREA POLICIES AND IMPLEMENTING REGULATIONS.

Policy LU-21.3.1 Kenmore shall protect shorelines and, where possible, should restore degraded habitat and critical area functions and values as consistent with the Comprehensive Plan Natural Environment Sub-Element.

Policy LU-21.3.2 Kenmore shall apply the following sequence of steps listed in order of priority in evaluating and mitigating the adverse impacts of development and redevelopment on critical areas within the shoreline jurisdiction, as consistent with WAC 173-26-201(2)(e):

1. Avoid the impacts altogether;
2. Minimize impacts;
3. Rectify impacts by repairing, rehabilitating or restoring the affected environment;
4. Reduce or eliminate the impacts over time;
5. Compensate for impacts by replacing, enhancing or providing substitute resources; and
6. Monitor the impact and take appropriate corrective measures.

Wetlands

GOAL 21.4. KENMORE SHOULD ALLOW ALTERATIONS TO WETLANDS ONLY IF THERE IS NO NET LOSS OF WETLAND FUNCTIONS AND VALUES.

Policy LU-21.4.1 Kenmore regulations for wetlands in shorelines shall address the following uses to achieve, at a minimum, no net loss of wetland area and functions:

1. Removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;
2. Dumping, discharging, or filling with any material, including discharges of stormwater and domestic, commercial, or industrial wastewater;
3. Draining, flooding, or disturbing of the open water level, duration of inundation, or groundwater table;
4. Driving of pilings;
5. Placing of obstructions;
6. Construction, reconstruction, demolition, or expansion of any structure;
7. Significant vegetation removal;

8. Other uses or development that results in an adverse ecological impact to the physical, chemical or biological characteristics of wetlands; and

9. Activities reducing the functions of buffers.

Policy LU-21.4.2 Kenmore shall delineate buffers around wetlands to protect and maintain wetland functions. Buffer widths shall be based on ecological function, characteristics and setting, any potential conflicts with adjacent land use, and other relevant factors.

Policy LU-21.4.3 Kenmore may allow compensatory mitigation only after a mitigation sequence is applied consistent with Policy LU-21.3.2. Lower priority mitigation measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

Critical Freshwater Habitat

GOAL 21.5 KENMORE SHALL ENSURE PROTECTION OF CRITICAL FRESHWATER HABITAT CONSISTENT WITH KENMORE CRITICAL AREA REGULATIONS FOR FISH AND WILDLIFE HABITAT OF IMPORTANCE (KMC 18.55.520 AND 18.55.530).

Policy LU-21.5.1 Kenmore should establish priorities for protection and restoration, where appropriate, along river corridors and lake shorelines.

Policy LU-21.5.2 Uses and development within and along stream channels, associated channel migration zones, wetlands, lake shorelines, and floodplains within the shoreline jurisdiction should be regulated to ensure that no net loss of ecological processes and functions results from new development near freshwaters of the state, including associated hyporheic zones.

Policy LU-21.5.3 Kenmore shall protect ecological functions associated with critical freshwater habitat as necessary to ensure no net loss from shoreline activities and associated changes.

Policy LU-21.5.4 Kenmore should facilitate appropriate restoration projects.

Flood Hazard Areas

GOAL 21.6. THE KENMORE SHORELINE MASTER PROGRAM SHALL UTILIZE THE POLICIES AND PROGRAMS ESTABLISHED IN THE KENMORE ~~FLOOD HAZARD MANAGEMENT PLAN AND~~ FLOOD ~~HAZARD~~ DAMAGE PREVENTION REGULATIONS TO MEET THE REQUIREMENTS OF THE SHORELINE MANAGEMENT ACT AND THE DEPARTMENT OF ECOLOGY'S GUIDELINES FOR FLOOD HAZARD REDUCTION.

Water Quality, Stormwater and Nonpoint Pollution

GOAL 21.7. PREVENT ADVERSE IMPACTS TO WATER QUALITY AND STORM WATER QUANTITY THAT WOULD RESULT IN A NET LOSS OF SHORELINE ECOLOGICAL FUNCTIONS OR ADVERSE IMPACTS TO AESTHETIC QUALITIES OR RECREATIONAL OPPORTUNITIES.

Policy LU- 21.7.1 Ensure consistency between shoreline management provisions and other regulations that address water quality and stormwater quantity. The regulations that are most protective of ecological functions and public safety shall apply.

Geologically Hazardous Areas

GOAL 21.8. PREVENT ADVERSE IMPACTS TO THE SHORELINE AND PUBLIC SAFETY AS A RESULT OF INAPPROPRIATE DEVELOPMENT IN GEOLOGICALLY HAZARDOUS AREAS, INCLUDING AREAS SUSCEPTIBLE TO EROSION, LANDSLIDING, EARTHQUAKE, OR OTHER GEOLOGIC~~AL~~ EVENTS.

Policy LU- 21.8.1 Ensure consistency between shoreline management provisions and other regulations that address geologically hazardous areas by incorporating Kenmore critical areas regulations into the SMP.

Policy LU- 21.8.2 Prohibit development or the creation of new lots that would cause foreseeable risk ~~from geological conditions~~ to people or improvements due to geologic conditions, or would require structural stabilization of the shoreline to protect the development, over the life of the development.

Policy LU- 21.8.3 If shoreline stabilization is required to protect existing development from geologic hazards, it shall be developed consistent with Section 24.2 of these policies.

22. Archaeological, Historic and Cultural Resources

GOAL 22.1. HISTORIC PROPERTIES IN THE SHORELINE JURISDICTION SHOULD BE PROTECTED TO PREVENT THE DESTRUCTION OF, OR DAMAGE TO, ANY SITE HAVING ARCHAEOLOGICAL, HISTORIC, CULTURAL, OR SCIENTIFIC VALUE THROUGH COORDINATION AND CONSULTATION WITH THE APPROPRIATE LOCAL, STATE AND FEDERAL AUTHORITIES, INCLUDING AFFECTED TRIBES.

1. Sites should be protected in collaboration with appropriate tribal, state, federal, and other local governments. Cooperation among public and private parties is to be encouraged in the identification, protection, and management of cultural resources.

2. Where appropriate, access to such sites should be made available to parties of interest. Access to such sites must be designed and managed in a manner that gives maximum protection to the resource.

3. Opportunities for education related to archaeological, historical and cultural features should be provided where appropriate and incorporated into public and private programs and development.

Policy LU-22.1.1 Kenmore should work with tribal, state, federal and local governments as appropriate to maintain an inventory of all known historic properties within the City in observance of applicable state and federal laws protecting such information from public disclosure. As appropriate, such sites should be preserved and/or restored for study, education and/or public enjoyment.

Policy LU-22.1.2 Provisions for historic property preservation, restoration and education should be incorporated with open space or recreation areas in site development plans whenever compatible and feasible.

Policy LU-22.1.3 Cooperation among involved private and public parties should be encouraged to achieve these historic, cultural, scientific and educational objectives.

Policy LU-22.1.4 Private and public owners of historic properties should be encouraged to provide public access and educational opportunities at levels consistent with long-term protection of both historic values and shoreline ecological processes and functions. Site-specific conditions may require public site access to be restricted at times, but educational means should be provided whenever possible.

Policy LU- 22.1.5 Historic property development should be planned and carried out so as to prevent adverse impacts to the resource. Adverse impacts to neighboring properties and other shoreline uses should be limited to temporary or reasonable levels.

Policy LU- 22.1.6 Owners of historic properties are encouraged to make substantial development plans known well in advance of application so that appropriate agencies, such as the Washington State Department of Archaeology and Historic Preservation, Tribes and others may have ample time to assess the site and make arrangements to preserve historic, cultural, scientific and educational values as applicable.

Policy LU- 22.1.7 If development is proposed adjacent to an historic property, then the proposed development should be designed and operated so as to be compatible with continued protection of the historic, cultural or archaeological site.

SHORELINE USE AND MODIFICATION POLICIES

23. Shoreline Use

General Use Policies

GOAL 23.1. DEVELOPMENT WITHIN THE SHORELINE JURISDICTION SHALL PROTECT THE PUBLIC'S HEALTH AND SAFETY, AND PRIVATE PROPERTY RIGHTS, WHILE IMPLEMENTING THE POLICIES OF THE SHORELINE MANAGEMENT ACT.

GOAL 23.2 PRESERVE OR DEVELOP SHORELINES, ADJACENT UPLANDS AND ADJACENT WATER AREAS IN A MANNER THAT ENSURES AN ORDERLY BALANCE OF SHORELINE USES.

Policy LU-23.2.1 Where there is a conflict between the uses permitted by zoning and the Shoreline Master Program, preference shall be given first to water-dependent uses, then to water-related uses, and finally to water-enjoyment uses.

Policy LU-23.2.2 Kenmore shall adopt use policies and development regulations to achieve consistency between shorelands and adjacent lands as directed in RCW 90.58.340.

Policy LU-23.2.3 Shoreline land and water areas particularly suited for specific and appropriate uses should be designated and reserved for such uses.

Policy LU-23.2.4 Like or compatible shoreline uses should be clustered or distributed in a rational manner rather than be allowed to develop haphazardly.

Policy LU-23.2.5 Multiple uses of the shoreline should be encouraged where location and integration of compatible uses are feasible.

Policy LU-23.2.6 The City shall consider the goals and policies within the Shoreline Master Program in all land use management actions regarding the use or development of adjacent uplands or the water areas, adjacent uplands and associated wetlands or streams with less than 20 cubic feet per second mean annual flow within its jurisdiction where such use or development will have an adverse effect on designated shorelines.

Policy LU-23.2.7 Adverse impacts associated with new development in the shoreline should be minimized and mitigated such that there is no net adverse impact to shoreline ecological processes and functions.

Policy LU-23.2.8 Incentives should be provided to substantially reduce the impacts of existing nonconforming uses on ecological functions. Nonconforming uses should be allowed to expand or be reconfigured if it is demonstrated that the expanded or reconfigured use would reduce the impacts of the existing use on ecological functions.

23.3 Aquaculture

Policy LU-23.3.1 Aquaculture activities should be designed, located and operated in a manner that supports long-term beneficial use of the shoreline and protects and maintains shoreline ecological processes and functions. Aquaculture should not be permitted where it would result in a net loss of shoreline ecological functions; adversely affect the quality or extent of habitat for native species; adversely impact other habitat conservation areas; or interfere with navigation or other water-dependent uses.

Policy LU-23.3.2 Aquaculture facilities should be designed, operated and located so as not to cause harm to humans, spread disease to native aquatic life, or establish new

non-native species. Aquaculture facilities shall not cause adverse impacts to shoreline ecological processes and functions, aesthetic qualities or public access.

Policy LU-23.3.3 Preference should be given to those forms of aquaculture that involve the least adverse environmental, visual and native plant and animal species impacts. In general, submerged aquaculture structures are preferred over those that involve substantial floating structures. Projects involving little or no substrate modification are preferred over those that involve substantial modification, recognizing that in some circumstances that importing sand or ~~pea~~ gravel on rocky or cobble substrates may result in more diverse habitat. Projects involving little or no supplemental food sources, pesticides, herbicides or antibiotic application are preferred over those that involve such practices.

Policy LU-23.3.4 Aquaculture that involves significant risk of cumulative adverse effects on water quality, sediment quality, benthic organisms, and/or wild fish populations through potential contribution of antibiotic resistant bacteria, or escapement of non-native species, or other adverse effects on native species or threatened or endangered species and their habitats should not be permitted.

Policy LU-23.3.5 Consideration should be given to both the potential beneficial impacts and potential adverse impacts that aquaculture development might have on the physical environment; on other existing and approved land and water uses, including navigation; or on the aesthetic qualities of a project area.

Policy LU-23.3.6 Legally established aquaculture uses, including authorized experimental projects, should be protected from incompatible uses that may seek to locate nearby. Uses or developments that have a high probability of damaging or destroying a legally established existing aquaculture use may be denied.

Policy LU-23.3.7 Community restoration projects associated with aquaculture should be reviewed and permitted in a timely manner.

Policy LU-23.3.8 Experimental aquaculture projects in water bodies should be limited in scale and should be approved for a limited period of time. Experimental aquaculture means an aquaculture activity that uses methods or technologies that are unprecedented or unproven in the State of Washington.

Policy LU-23.3.9 Kenmore should actively seek substantive comment on any shoreline permit application for aquaculture from all appropriate Federal, State and local agencies; the Muckleshoot Tribe, the Tulalip Tribes and other tribes with treaty fishing rights; and the general public regarding potential adverse impacts. Comments of nearby residents or property owners directly affected by an aquaculture proposal should be considered and evaluated, especially in regard to use compatibility and aesthetics.

Policy LU-23.3.10 The rights of treaty tribes to aquatic resources within their usual and accustomed areas should be addressed during the permit review process. Direct and early coordination between the applicant or proponent and the affected tribe should be encouraged.

Policy LU-23.3.11 Kenmore support should be given to ~~State~~Washington Department~~s~~ of Fish~~eries~~ and ~~Game~~Wildlife to improve stream conditions, open new spawning areas, and establish new fish runs.

23.4 Boating facilities

Policy LU-23.4.1 Boating facilities shall be located only at sites with suitable environmental conditions, shoreline configuration, access, and neighboring uses, and:

1. Meet health, safety and welfare requirements;
2. Mitigate adverse aesthetic impacts;
3. Provide public access in new marinas, unless there is a safety or security concern;
4. Limit adverse impacts to shoreline resources from boaters living in their vessels;
5. Ensure no net loss of shoreline ecological processes and functions or other adverse impacts; and
6. Protect the rights of navigation.

Policy LU-23.4.2 The need for additional marinas should be balanced against other shoreline-dependent uses.

Policy LU-23.4.3 Local governments should coordinate in the planning and development of regional marina facilities for multi-jurisdictional use.

Policy LU-23.4.4 Marinas should be located only within the Downtown Waterfront and adjacent Aquatic ~~shoreline e~~Environment~~s~~ designations.

Policy LU-23.4.5 Marina development and ancillary facilities should be designed to use minimal shoreline.

Policy LU-23.4.6 Parking areas that serve marinas shall conform to the parking regulations of the Kenmore Comprehensive Plan Transportation Element and Shoreline Master Program transportation and parking policies.

Policy LU-23.4.7 Marinas should be planned to minimize traffic congestion and pedestrian/vehicle conflicts.

Policy LU-23.4.8 Dry storage of boats should be encouraged in order to retain shoreline for other shoreline dependent uses or so that the greatest number of boats per foot of shoreline frontage can be accommodated.

Policy LU-23.4.9 Viewpoints, walkways, picnic facilities, benches, telephones, restrooms, drinking fountains and other public use facilities should be encouraged at marinas.

Policy LU-23.4.10 Covered moorage should be discouraged except for vessel repair or construction activity.

Policy LU-23.4.11 Setbacks should be established for upland boating facilities to protect shoreline ecological processes and functions, provide space for shoreline vegetation preservation and enhancement, minimize adverse impacts to views of the water by the public and adjacent residents, and protect the visual quality of views of the shoreline.

Policy LU-23.4.12 Marinas should be allowed to have live-aboard tenants provided they are limited to 10 percent of the boat slips in the marina, are occupied by single-family tenants, and the marina has adequate on-land and pump-out facilities. ~~Where underlying zoning restrictions would otherwise prohibit live-aboards, such as through a P suffix condition, those conditions should be removed if it has been demonstrated that compliance with the Shoreline Code will adequately address adverse impacts from live-aboards.~~

23.5 Commercial

Preference should be given to water-dependent commercial uses over non-water-dependent commercial uses, then water-related and water-enjoyment commercial uses over non-water-oriented commercial uses. Some commercial uses within the shoreline jurisdiction may be required to incorporate appropriate design and operational elements to qualify as water-related or water-enjoyment.

Policy LU-23.5.1 Kenmore shall require all commercial development on public land to provide public access, unless the use is incompatible or there are public safety concerns.

Policy LU-23.5.2 Kenmore shall prohibit non-water-oriented commercial uses in the shoreline jurisdiction unless they meet the following criteria:

1. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and/or ecological restoration; or

2. Navigability is severely limited at the proposed site and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives, such as providing public access and/or ecological restoration.

Policy LU-23.5.3 Kenmore may allow non-water-oriented commercial development in the shoreline jurisdiction if the site is physically separated from the shoreline by another property or public right-of-way, provided that a property should not be allowed to be subdivided in a manner that would thwart the purposes of this policy.

Policy LU-23.5.4 Kenmore shall allow over-water non-water-dependent commercial uses only in existing structures or if the use is auxiliary to and necessary to support a water-

dependent use. The area of any over-water structure shall be the minimum possible.

Policy LU-23.5.5 Kenmore shall prohibit commercial development that will have adverse impacts on other shoreline uses, resources and values such as navigation, recreation and public access, and views. Kenmore shall require mitigation for all commercial development to ensure that it does not cause a net loss of ecological processes and functions.

Policy LU-23.5.6 Setbacks should be established for commercial development in the shoreline jurisdiction to protect shoreline ecological processes and functions, provide space for shoreline vegetation preservation and enhancement, minimize adverse impacts to views of the water by the public and adjacent uses, protect the visual quality of views of the shoreline, and allow for public access.

Policy LU-23.5.7 Boat moorage, launching facilities and other services should be located where existing vehicular access and parking are available or can be made available.

Policy LU-23.5.8 The use of porous materials should be encouraged for paved areas to allow water to infiltrate into the soil. Use of holding systems should be encouraged to control the runoff rate from parking lots and roof tops where the runoff would flow to Swamp Creek or any stream that is prone to flooding.

23.6 ~~Industrial~~Heavy manufacturing

Kenmore has not identified any shoreline areas where heavy manufacturing or industrial uses would be appropriate.

Policy LU-23.6.1 Kenmore ~~will give preference to all other uses~~ shall prohibit new heavy manufacturing or industrial uses in the shoreline jurisdiction~~before industrial uses. Kenmore shall give preference to industrial uses in the following order: first, water-dependent industrial uses; second, water-related industrial uses; and third, nonwater-oriented industrial uses.~~

Policy LU-23.6.2 Kenmore should encourage public access on existing industrial sites in the shoreline jurisdiction, unless Kenmore determines that public access is infeasible or inappropriate.

Policy LU-23.6.3 Kenmore should encourage redevelopment, environmental clean up and shoreline restoration on existing industrial sites.

~~Policy LU-23.6.4 Kenmore should prohibit new nonwater-oriented industrial development in the shoreline jurisdiction, except when the use is part of a mixed-use project that includes water-dependent uses or the use provides a significant public benefit with respect to the Shoreline Management Act's objectives, such as providing public access and/or ecological restoration.~~

~~Policy LU-23.6.5 Kenmore may allow nonwater-oriented industrial uses in the shoreline jurisdiction if the site is physically separated from the shoreline by another property or public right-of-way.~~

~~Policy LU-23.6.6 Setbacks should be established for industrial development in the shoreline jurisdiction to protect shoreline ecological processes and functions, provide space for shoreline cleanup if necessary, provide space for vegetation preservation and enhancement, minimize adverse impacts to views of the water by the public and adjacent uses, and improve the visual quality of views of the shoreline.~~

~~Policy LU-23.6.7 Industrial docks and piers should be designed to minimize adverse impact of such facilities upon other water-dependent uses and resources.~~

~~Policy LU-23.6.8 Industrial and commercial activities should be encouraged to share overwater structures and shoreline facilities.~~

~~Policy LU-23.6.9 Water reclamation plants, power plants, and sewage treatment facilities should be located where they are compatible with adjacent uses and do not interfere with recreational, residential, or other public uses of the shoreline.~~

23.7. In-Water Structures

In-water structure means a structure placed by humans within a stream, river, or lake waterward of the ordinary high-water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-water structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish collection, or other purposes.

Policy LU-23.7.1 In-water structures shall provide for the protection and preservation of shoreline ecological processes and functions, and cultural resources including, but not limited to, fish and fish passage, wildlife and water resources, critical areas, hydro-geological processes, and natural scenic vistas.

Policy LU-23.7.2 Planning for in-water structures shall give due consideration to the full range of public interests and ecological processes and functions, with special emphasis on protecting and restoring habitat for threatened or endangered species.

23.8. Mining

Kenmore has not identified any shoreline areas where mining ~~may~~would be appropriate.

Policy LU-23.8.1 Mining shall be prohibited in the shoreline jurisdiction.

23.9. Recreation

Recreational development includes commercial and public facilities designed and used to provide recreational opportunities to the public. Recreational development should be given priority and is to be primarily related to access to and enjoyment and use of the water and shorelines of the state.

Policy LU-23.9.1 Recreational development is allowed in the shoreline jurisdiction and must be consistent with the purposes of the shoreline environment designation in which the property is located.

Policy LU-23.9.2 Kenmore shall plan to provide public recreational uses on city-owned shoreline, consistent with the goals of this chapter.

Policy LU-23.9.3 Recreational improvements and new facilities should be constructed so that they preserve the natural character of the shoreline.

Policy LU-23.9.4 All recreational developments should be sited to enhance and protect existing shoreline ecological processes and functions.

~~Policy LU-23.9.5 New recreational buildings should be made sympathetic to the scale, form, and proportion of older development, to promote harmony in the visual relationships and transitions between new and older buildings.~~

Policy LU-23.9.~~6~~5 The use of conventional fertilizers and pesticides in public recreation areas should be minimized or replaced with ecologically friendly landscape management methods.

Policy LU-23.9.~~7~~6 Public recreational shoreline areas should serve as emergency refuge areas for boaters.

Policy LU-23.9.~~8~~7 Visual access to the water should be pursued on steep slopes, at view points from bluffs and stream valleys, and in general where it is consistent with public safety and where extensive flood or erosion protection would not be necessary.

Policy LU-23.9.~~9~~8 The acquisition of public easements to the shoreline should be encouraged.

Policy LU-23.9.~~10~~9 Setbacks should be established for recreational development in the shoreline jurisdiction to protect existing shoreline ecological processes and functions, provide space for shoreline vegetation preservation and enhancement, minimize adverse impacts to views of the water by the public and adjacent uses, and protect the visual quality of views of the shoreline.

Policy LU-23.9.11 ~~Existing public recreation shorelines should be restored and, w~~Where possible during master plan development or redevelopment, ~~Kenmore should~~consideration should be given to revegetate~~e~~ing the shoreline, re-site~~e~~ing roads and parking areas further away from the shoreline, and remove~~e~~ing stream channelization and shoreline protection devices.

Policy LU-23.9.1~~2~~0 Prime fishing areas should be given priority and protected for recreational use.

Policy LU-23.9.1~~3~~1 Boating activities that increase shore erosion should be discouraged.

Policy LU-23.9.1~~4~~2 Effective interpretation should be provided to raise the quality of visitor experiences and to provide an understanding of the resource.

23.10. Residential

The term "residential development" includes single-family detached dwellings, attached and multifamily dwelling units, and subdivision of shoreline land into new residential lots. The Shoreline Management Act recognizes single-family residential development as a priority use within shorelines of the state.

Policy LU-23.10.1 Single-family residential development is a priority use in the shoreline jurisdiction in Kenmore.

Policy LU-23.10.2 Setbacks should be established for residential development in the shoreline jurisdiction to protect existing shoreline ecological processes and functions, provide space for shoreline vegetation preservation and enhancement, minimize adverse impacts to views of the water by the public and adjacent residents, and protect the visual quality of views of the shoreline.

Policy LU-23.10.3 New shoreline residential development, including accessory structures and uses, should be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that shoreline stabilization is not required to protect these structures and uses.

Policy LU-23.10.4 New over-water residences, including floating homes and floating on-water residences, are prohibited in the shoreline jurisdiction.

Policy LU-23.10.5 Kenmore should require multi-family residential development and subdivisions within the shoreline jurisdiction to provide community or public access.

Policy LU-23.10.6 Kenmore shall require subdivisions to:

1. Be designed, configured and developed in a manner that ensures no net loss of ecological processes and functions at full build-out of all lots;

2. Be designed, configured and developed in a manner that prevents the need for new shoreline stabilization or flood risk reduction measures; and

3. Be consistent with the provisions and policies for shoreline environment designations and the general policy goals of this Plan.

~~Policy LU-23.10.7 Residential development in flood hazard areas and channel migration areas shall be consistent with KMC 18.55.700-750.~~

~~Policy LU-23.10.8 Residential development in geologically hazardous areas shall be consistent with KMC 18.55.600-650.~~

Policy LU- 23.10.~~9~~7 In residential developments, the water's edge should be kept free of fences.

Policy LU-23.10.~~10~~8 Every reasonable effort should be made to ensure the retention of native shoreline vegetation and other natural features of the landscape during site development and construction.

~~Policy LU-23.10.11 The City should explore creation of a planned unit development (PUD) process to be employed within redeveloping areas of the shoreline area so that all facets of the development can be examined.~~

Policy LU-23.10.~~12~~9 Residential developments should be designed to enhance the appearance of the shoreline and not substantially interfere with the public's view and access to the water.

Policy LU-23.10.1~~3~~0 Residential developments should be permitted only where there are adequate provisions for utilities, circulation, access, site layout and building design.

Policy LU-23.10.1~~4~~1 Residential development plans submitted for approval should contain provisions for protection of groundwater, erosion control, water quality, aesthetic characteristics and landscaping.

Policy LU-23.10.1~~5~~2 Subdivisions should provide public pedestrian access to the shorelines within the development in accordance with this Master Program.

Policy LU-23.10.1~~6~~3 Streets, roadways and roadway easements, whether publicly or privately owned, within the boundaries of any waterfront parcel, should not be used to compute lot area, lot dimensions, yards, open space or other required conditions of land subdivision or development.

23.11. Transportation and Parking

Transportation and parking facilities may be necessary to support shoreline uses, to support the regional economy, and for access to privately owned property in the shoreline. Transportation planning in shorelines should not be focused only on automobiles, but should consider a wide range of options, including buses, light rail, commuter rail, bicycle, passenger-only ferries, and pedestrian facilities. Transportation planning can be a tool for finding opportunities to provide public access to the shorelines.

Policy LU-23.11.1 Kenmore shall require transportation and parking plans and projects to be consistent with the public access policies in this Plan, the Comprehensive Plan Transportation Element, and shoreline and critical area protection provisions.

Policy LU-23.11.2 Circulation planning and projects should support existing and proposed shoreline uses that are consistent with the Kenmore Shoreline Master Program. Where appropriate, circulation system planning should include systems for pedestrian, bicycle and public transportation and combining transportation uses to minimize the footprint of transportation facilities.

Policy LU-23.11.3 Transportation and parking facilities shall be planned, located and designed to have the least possible adverse impact on environmentally critical areas in the shoreline, not result in a net loss of shoreline ecological processes and functions or adversely affect existing or planned water-dependent uses. Where other options are available and feasible, new transportation facilities or transportation facility expansions should not be constructed within the shoreline jurisdiction.

Policy LU-23.11.4 Parking facilities shall be prohibited in the Aquatic ~~shoreline e~~Environment ~~unless necessary to support a water-dependent use, and then should be only allowed if no alternative exists, and should be the minimum needed to support the use~~.

~~Policy LU-23.11.5 Existing public recreation shorelines should be restored and, where possible, Kenmore should revegetate the shoreline, re-site roads and parking areas further away from the shoreline, and remove stream channelization and shoreline protection devices.~~

Policy LU-23.11.~~6~~5 Setbacks should be established for new transportation and parking facilities in the shoreline jurisdiction to protect shoreline ecological processes and functions, provide space for shoreline vegetation preservation and enhancement, and protect the visual quality of views of the shoreline. New parking facilities shall not impede the provision of new shoreline public access facilities and opportunities.

Policy LU-23.11.~~7~~6 Shoreline transportation facilities should be designed, located and maintained to fit the topography, minimize cuts and fills, and minimize erosion.

Policy LU-23.11.~~8~~7 Transportation and utility facilities should be encouraged to coordinate joint use of rights-of-way and to consolidate crossings of water bodies when adverse impacts to the shoreline can be minimized by doing so.

Policy LU-23.11.~~9~~8 Shoreline roadways should have a high priority for arterial beautification funds.

Policy LU-23.11.~~10~~9 Transportation facilities crossing 100-year floodplains should ~~be constructed on low profile designs so as~~ not ~~to~~ function as dikes or levees to flood waters.

Policy LU-23.11.1~~0~~0 Passenger only ferry facilities should be encouraged.

Policy LU-23.11.1~~2~~1 Abandoned road or railroad rights-of-way that contain unique shoreline amenities should be acquired for public benefit.

Policy LU-23.11.1~~3~~2 Kenmore should extend its pedestrian and bicycle trail system along the Sammamish River shoreline.

23.12 Utilities

Utilities include services and facilities that produce, convey, store, or process power, gas, water, sewage, stormwater, communications, oil, or waste. Utilities that are classified as on-site utilities serving only one primary use are considered "accessory utilities" and are considered part of the primary use.

Policy LU-23.12.1 Utility facilities shall be designed and located to ensure no net loss of shoreline ecological processes and functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses, while meeting the needs of the projected future population in Kenmore.

Policy LU-23.12.2 Kenmore shall allow modification of existing utility facilities and the location of new water-oriented portions of utility facilities in the shoreline jurisdiction provided that a mitigation sequence is applied per KMC 18.55.210 and there is no net loss of ecological processes and functions. As feasible, those parts of utility production and processing facilities that are not water-oriented, such as power plants and sewage treatment plants, shall be located outside of the shoreline jurisdiction.

Policy LU-23.12.3 Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline jurisdiction where feasible. Transmission facilities located within the shoreline jurisdiction shall ensure no net loss of shoreline ecological processes and functions.

Policy LU-23.12.4 Utilities should be located in existing developed rights-of-way and corridors whenever possible.

Policy LU-23.12.5 Unless no other feasible alternative location exists, Kenmore should discourage the development of facilities that may require periodic maintenance that adversely affects shoreline ecological processes and functions.

Policy LU-23.12.6 Setbacks should be established for new utility facilities in the shoreline jurisdiction to protect shoreline ecological processes and functions, provide space for shoreline vegetation preservation and enhancement, minimize adverse impacts to views of the water by the public and adjacent uses, and protect the visual quality of views of the shoreline.

Policy LU-24.12.2 Utilities located in wetlands and floodplains inappropriate for development should not make service available to those areas.

Policy LU-23.12.7 Public access consistent with public safety and security should be encouraged where rights-of-way for utility facilities are located in shorelines of the state.

Policy LU-23.12.8 New utility routes should be designed to minimize adverse impacts on views from the water and adjacent uplands.

Policy LU-23.~~6.9~~12.9 Water reclamation plants, power plants, and sewage treatment facilities should be located where they are compatible with adjacent uses and do not interfere with recreational, residential, or other public uses of the shoreline.

23.13 Outdoor Advertising Signs and Billboards

Policy LU-23.13.1 Vistas and viewpoints should be free from unnecessary signs.

Policy LU-23.13.2 Signs, when permitted, should be placed so as not to impair views of the water or impair views upland from the water except where hazardous shoreline conditions require warning signs.

Policy LU-23.13.3 Warning signs should be installed by Kenmore or by other appropriate entities where hazardous shoreline conditions may exist.

Policy LU-23.13.4 Advertising signs, when permitted, should be limited to shoreline areas of high intensity use.

Policy LU-23.13.5 Signs in shoreline areas should be maintained in a state of security, safety and repair.

Policy LU-23.13.6 Any new sign codes for Kenmore should recognize the unique aesthetic character and ecological qualities of shoreline areas.

23.14 Conditional Uses

For the purposes of the Kenmore Shoreline Master Program, a shoreline conditional use may be appropriate in order to:

1. Effectively address unanticipated uses that are not classified in the Shoreline Master Program;

2. Address cumulative impacts; or

3. Provide the opportunity to require specially tailored environmental analysis or design criteria for types of use or development that may otherwise be inconsistent with a specific designation within the Shoreline Master Program or with the Shoreline Management Act policies.

Policy LU-23.14.1 The following types of uses and development should require a shoreline conditional use permit:

1. Uses and development that may significantly impair or alter the public's use of the water areas of the state; and

2. Uses and development which, by their intrinsic nature, may have an adverse impact on shoreline ecological processes and functions depending on location, design, and site conditions.

24. Shoreline Modification

General Modification Policies

Policy LU-24.1.1 Allow structural shoreline modifications only where they are demonstrated to be necessary to support or protect an allowed primary structure or legally existing shoreline use that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.

Policy LU-24.1.2 Reduce the effects of shoreline modifications and, as much as possible, limit shoreline modifications in number and extent.

Policy LU-24.1.3 Allow only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.

Policy LU-24.1.4 Ensure that shoreline modifications individually and cumulatively do not result in a net loss of ecological processes or functions.

Policy LU-24.1.5 Shoreline modifications that have the least adverse impact on ecological processes and functions should be prioritized and mitigation should be required for any impacts resulting from shoreline modifications.

Policy LU-24.1.6 Incentives should be provided to substantially reduce the impacts of existing nonconforming structures on ecological functions. Nonconforming docks should be allowed to expand or be reconfigured only when the structure would reduce the impacts on critical fish habitat. Nonconforming bulkheads should be allowed to be reconstructed if they provide a pocket cove or beach and substantially reduce impacts on ecological functions.

24.2. Shoreline Stabilization

Shoreline stabilization includes actions taken to address adverse erosion impacts to property and dwellings, businesses or structures caused by natural processes, such as current, flood, wind or wave action. Shoreline stabilization includes structural and nonstructural methods. Nonstructural methods include building setbacks, relocation of structures to be protected, groundwater management, planning and regulatory measures to avoid the need for structural stabilization. When structural stabilization is needed, "soft" methods can be used instead of "hard" methods (such as bulkheads, rip rap and groins) in some cases. Soft methods of shoreline stabilization include, but are not limited to, vegetation enhancement; upland drainage control; biotechnical measures; beach enhancement; and anchor trees.

Policy LU-24.2.1 Kenmore shall require shoreline stabilization to be consistent with WAC 173-26-221(5) for vegetation retention and WAC 173-26-221(2) for protection of critical areas.

Policy LU-24.2.2 Kenmore shall adopt standards to first avoid then mitigate adverse impacts to shoreline ecological processes and functions when alteration of the shoreline is allowed for the construction of single detached dwelling units and accessory structures. These standards shall address the design and type of protective measures and devices that are allowed.

Policy LU-24.2.3 Kenmore shall require new development on steep slopes to be set back sufficiently to ensure that the need for shoreline stabilization is unlikely during the life of the structure, as demonstrated by a geotechnical analysis.

Policy LU-24.2.4 Shoreline stabilization decisions should consider available scientific information and current shoreline conditions.

Policy LU-24.2.5 Avoid and reduce adverse impacts from shoreline stabilization according to the mitigation sequence in General Shoreline Management Policies for Conservation – Critical Areas (Policy LU-21.3.2) and WAC 173-26-201(2)(e). Shoreline planning should consider off-site erosion, accretion or flood damage that might occur as a result of shoreline stabilization structures or activities.

Policy LU-24.2.6 Shoreline stabilization on Lake Washington, the Sammamish River or Swamp Creek shorelines should not be used as the reason for creating new or newly usable land.

Policy LU-24.2.7 Shoreline stabilization structures should allow passage of ground and surface waters into shorelines of the state.

Policy LU-24.2.8 Shoreline stabilization should not reduce the volume and storage capacity of the Sammamish River, Swamp Creek, and adjacent wetlands or floodplains.

Policy LU-24.2.9 Sammamish River and Swamp Creek shoreline stabilization should be planned, designed, and constructed to allow for channel relocation or stream meander whenever possible.

Policy LU-24.2.10 Appropriate soft shore armoring methods, as determined by a qualified ~~specialist~~professional, should be used for shoreline stabilization when

necessary to protect existing property or, when for new development, no options exist to locate in such a manner as to avoid shoreline stabilization.

Policy LU-24.2.11 Kenmore shall allow new hard structural stabilization measures only as follows:

1. The proposal is the minimum necessary to protect existing legally established primary structures, new non-water-dependent development, and existing or proposed water-dependent development and structures, and:

    a. The erosion is not the result of upland conditions, such as the loss of vegetation and drainage;

    b. Nonstructural measures, such as locating the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient;

    c. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report submitted by a qualified specialist. The damage must be caused by natural processes; and

    d. Mitigation is provided such that the erosion control structure will not result in a net loss of shoreline ecological processes and functions.

2. The proposal would protect shoreline restoration projects or hazardous substance remediation projects, and:

    a. Nonstructural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not sufficient; and

    b. The erosion control structure will not result in a net loss of shoreline ecological processes and functions.

Policy LU-24.2.12 The burden of proof for the need for shoreline stabilization to protect existing or proposed developments rests on the applicant(s).

Policy LU-24.2.13 Shoreline stabilization activities which may necessitate new or increased shoreline stabilization on the same or other affected properties where there has been no previous need for protection, should be discouraged.

Policy LU-24.2.14 New development should be located and designed to avoid the need for future shoreline stabilization.

Policy LU-24.2.15 Areas of significance in the spawning, nesting, rearing or residency of aquatic and terrestrial biota should be given special consideration when reviewing shoreline stabilization actions.

Policy LU-24.2.16 Multiple use of shoreline stabilization structures or non-structural solutions should be encouraged.

Policy LU-24.2.17 An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves.

Policy LU-24.2.18 Kenmore shall require replacement of shoreline stabilization structures to be designed, located, sized, and constructed to ensure no net loss of ecological processes and functions or, if infeasible to provide such protection, to use the approach with the least adverse impacts and provide mitigation for unavoidable impacts.

~~Policy LU-24.2.19 Replacement walls or bulkheads protecting a residence shall not encroach waterward of the ordinary high water mark, unless the residence was occupied prior to January 21, 1992, and there are overriding safety and environmental concerns. In cases where there are overriding safety and environmental concerns, the replacement wall or bulkhead structure shall abut the existing shoreline stabilization structure and may be located on the waterward side of the existing wall or bulkhead structure.~~

Policy LU-24.2.~~20~~19 When shoreline stabilization is proposed, Kenmore shall require a geotechnical report to address the need to prevent potential damage to a primary structure. ~~The report shall estimate time frames and rates of erosion and the urgency associated with the specific situation. Kenmore should not allow hard armoring solutions, unless a geotechnical report confirms that there is a significant possibility that the structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is immediate would foreclose the opportunity to use measures that avoid adverse impacts to ecological processes and functions. If the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, the report may still be used to justify more immediate authorization to protect against erosion using soft measures.~~

Policy LU-24.2.2~~1~~10 If structural shoreline stabilization measures are demonstrated to be necessary, Kenmore shall limit the size of stabilization measures to the minimum necessary.

Policy LU-24.2.2~~2~~21 Kenmore shall ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline, except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological processes and functions. Where feasible, Kenmore shall require ecological restoration and public access improvements to be incorporated into the project.

Policy LU-24.2.2~~3~~32 Adverse impacts of erosion and mass wasting should be mitigated through protection of geologically hazardous areas.

24.3 ~~Piers and Docks~~Water Access Structures

Policy LU-24.3.1 Kenmore shall allow new ~~piers and docks~~water access structures only for water-dependent uses or public access. If it is designed and intended solely as

a facility for access to watercraft, a dock or pier associated with a single-family residence is considered a water-dependent use.

Policy LU-24.3.2 Kenmore shall require ~~pier and dock~~water access structure construction to be limited to the minimum size necessary to meet the needs of the proposed water-dependent use.

Policy LU-24.3.3 Kenmore may allow water-related and water-enjoyment uses as part of mixed-use development on over-water structures where they are clearly auxiliary to and in support of water-dependent uses, provided the structure is the minimum size required to serve the water-dependent use.

Policy LU-24.3.4 Kenmore shall allow new ~~pier or dock construction~~water access structures~~, excluding docks accessory to single-family residences,~~ only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses. Applicants for new piers and docks accessory to single-family residences are not required to demonstrate need.

Policy LU-24.3.5 Kenmore shall require new residential development of two or more dwelling units to provide community pier or dock facilities, when feasible, rather than individual piers or docks for each dwelling unit. Kenmore shall allow only one pier or dock associated with residential development on a parcel.

Policy LU-24.3.6 Kenmore shall require ~~piers and docks~~water access structures, including those accessory to single-family residences, to be designed and constructed to avoid and then minimize and mitigate the adverse impacts to ecological processes and functions. ~~Piers and docks~~Water access structures should be constructed of non-toxic materials. Where toxic materials, such as treated wood, are proposed, the proponent must show that no non-toxic alternative exists.

Policy LU-24.3.7 Open pile pier construction should be preferred on Lake Washington where scenic values will not be impaired and where there will be no net loss of ecological processes and functions.

Policy LU-24.3.8 ~~Floating pier~~Dock construction should be preferred in those areas where scenic values are high and on the Sammamish River.

Policy LU-24.3.9 ~~Piers and docks~~Water access structures should be discouraged where conflicts with recreational boaters and other recreational water activities would be created by ~~pier~~water access structure construction.

Policy LU-24.3.10 Preference should be given to shared use of ~~piers~~water access structures in all shoreline areas.

Policy LU-24.3.11 Temporary moorages should be permitted for vessels used in the construction of shoreline facilities. The design and construction of such moorages shall be such that upon termination of the project the aquatic life can be returned to their original condition within one year at no cost to the environment or the public.

Policy LU-24.3.12 Shoreline structures that are abandoned or structurally unsafe should be abated.

Policy LU-24.3.13 Substantial additions or alterations, including, but not limited to, substantial developments, should be in conformance with the policies and regulations set forth in the Shoreline Master Program.

Policy LU-24.3.14 ~~Piers and docks~~Water access structures should not interfere with navigation.

24.4 Fill

Fill means the addition of soil, sand, rock, gravel, sediment, earth retaining structures, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. ~~Fill is not permitted within the 100-year floodplain without providing compensatory flood storage to prevent a rise in the base flood, which is a flood having a one percent chance of being equaled or exceeded in any given year, often referred to as the "100-year flood."~~ Fill can adversely affect ecological processes and functions, including channel relocation or stream meander.

Policy LU-24.4.1 Kenmore shall require fill to be located, designed, and constructed to protect shoreline ecological processes and functions and ecosystem-wide processes, including channel migration, stream meander and side channels. Mitigation shall be required consistent with Policy LU 21.3.2.

Policy LU-24.4.2 Kenmore shall allow fill waterward of the ordinary high-water mark allowed only when necessary to support:

1. Water-dependent use;
2. Public access;
3. Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan;
4. Disposal of dredged material considered suitable under, and conducted in accordance with, the dredged material management program of the Washington Department of Natural Resources;
5. Expansion or alteration of SR 522 in the shoreline and then only upon a demonstration that alternatives to fill are not feasible; or
6. Mitigation actions, environmental restoration, beach nourishment, enhancement projects and flood risk reduction projects.

Policy LU-24.4.3 Kenmore shall require a shoreline conditional use permit for fill waterward of the ordinary high-water mark for any use except ecological restoration and maintenance, repair and replacement of flood protection facilities.

Policy LU-24.4.4 Fill should be deposited so as to minimize disruption of normal surface and ground water passage.

Policy LU-24.4.5 Fill should allow surface water penetration into the ground water supply where such conditions existed prior to fill.

Policy LU-24.4.6 Fill within the 100-year floodplain should not reduce the river channel or floodplain water storage capacity, reduce the channel migration zone, or in any way increase flood hazard so as to endanger public safety.

Policy LU-24.4.7 Land should be filled only after some ultimate use of the property is approved by Kenmore in accordance with the Comprehensive Plan and this Shoreline Master Program.

Policy LU-24.4.8 Fill should be done at such time as to minimize damage to ecological processes and functions.

Policy LU-24.4.9 Beach nourishment areas may be established by Kenmore on Lake Washington.

24.5 Breakwaters, Groins and Weirs

Breakwaters, groins, and weirs are all structural elements that are constructed to absorb or deflect wave action or to control excess sediment. A breakwater is an off-shore structure, either floating or not, which may or may not be connected to the shore and is designed to absorb and reflect back into the water body the energy of the waves. A groin is a barrier-type structure extending from the backshore into the water across the beach, which is constructed to interrupt sediment movement along the shore. A weir is a small dam in a stream or river to control the flow of water. These structural elements should be allowed only under limited circumstances as they can have adverse effects on ecological processes and functions.

Policy LU-24.5.1 Kenmore shall allow breakwaters and weirs located waterward of the ordinary high-water mark only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purposes.

Policy LU-24.5.2 Groins are prohibited except as a component of a publicly-sponsored project to protect or restore shoreline ecological processes and functions.

Policy LU-24.5.3 Kenmore shall require a shoreline conditional use permit for the construction of breakwaters, groins, weirs, and similar structures, except for those structures installed to protect or restore ecological processes and functions, such as woody debris installed in streams.

Policy LU-24.5.4 Breakwaters, groins, and weirs shall be designed to protect critical areas and shall provide for mitigation according to the sequence defined in General Shoreline Management Policies for Conservation – Critical Areas (Policy LU-21.3.2) and WAC 173-26-201(2)(e).

Policy LU-24.5.5 Reduction of the opportunity to use surface water area which may result from breakwater construction should be weighed against the benefits of reduced wave action.

Policy LU-24.5.6 Applicants for breakwaters, groins or weirs should consider structural alternatives and the related effects on ecological processes and functions.

Policy LU-24.5.7 Breakwater, groin and weir design should include provisions for compatible public access or recreational uses when consistent with navigation and when public safety can be ensured.

Policy LU-24.5.8 Care should be exercised in location, design, construction and expansion of breakwaters, groins and weirs relative to the shoreline environments and other shoreline dependent uses.

Policy LU-24.5.9 Beach nourishment should be considered where breakwaters or groins affect shorelines.

24.6 Dredging

Dredging is the removal, displacement, or disposal of unconsolidated earth material such as sand, silt, gravel, or other submerged materials, from the bottom of water bodies, ditches, or natural wetlands. Long-term maintenance and support activities are also considered dredging. Dredging can cause significant ecological damage. Mitigation measures should be required to ensure no net loss of ecological processes and functions.

Policy LU-24.6.1 Kenmore shall require that new development should be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

Policy LU-24.6.2 Kenmore shall allow dredging for the purpose of establishing, expanding, or relocating or reconfiguring navigation channels and basins when necessary to ensure safe and efficient accommodation of existing navigational uses. Adverse ecological impacts shall be minimized and mitigation shall be provided such that there is no net loss of ecological processes and functions. Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged or existing authorized location, depth, and width.

~~Policy LU-24.6.3 Kenmore shall not allow dredging waterward of the ordinary high water mark for the primary purpose of obtaining fill material, except when the material is necessary for the restoration of ecological processes and functions. When allowed, the site where the fill is to be placed shall be located waterward of the ordinary high water mark. The project must be either associated with a habitat restoration project under the Model Toxics Control Act or the Comprehensive Environmental Response, Compensation, and Liability Act, or, if approved through a shoreline conditional use permit, any other significant habitat enhancement project.~~

Policy LU-24.6.~~4~~3 Kenmore shall not allow disposal of dredge material on shorelands, in wetlands and/or in side channels within a channel relocation or stream meander area. ~~Kenmore shall not allow disposal of dredge material in wetlands located within the shoreline jurisdiction. In the limited instances where it is allowed, such disposal shall require a shoreline conditional use permit.~~

Policy LU-24.6.~~5~~4 Dredging and excavation in environmentally critical areas within the shoreline should not be allowed.

Policy LU-24.6.~~6~~5 Dredging operations should be scheduled so as to not materially interfere with the migration of native fish.

Policy LU-24.6.~~7~~6 When dredged spoil has suitable organic and physical properties, dredging operators should be encouraged to recycle dredged material for reuse.

Policy LU-24.6.~~8~~7 Dredging should be allowed only in the Aquatic ~~shoreline e~~Environment and to support water dependent uses.

Policy LU-24.6.~~9~~8 Disposal of dredge and excavation spoils within shorelines should be prohibited except when the material is necessary for the restoration of ecological processes and functions.

24.7 Restoration and ~~E~~enhancement

Shoreline habitat and natural systems enhancement projects should be supported and coordinated with other plans and regulations, such as salmon conservation plans, the King County Flood Hazard Reduction Plan and Flood Control Zone District, and flood hazard management policies in the Kenmore Comprehensive Plan Natural Environment Sub-Element and Surface Water Element.

Policy LU-24.7.1 Kenmore should allow for habitat and natural systems enhancement projects that include, but are not limited to:

1. Modification of vegetation;
2. Removal of non-native or invasive plants;
3. Shoreline stabilization using soft or non-structural techniques; and
4. Dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological processes and functions of the shoreline.

Policy LU-24.7.2 Habitat and natural systems enhancement projects should ensure that the projects address legitimate restoration needs and priorities and facilitate implementation of Kenmore's Shoreline Restoration Plan.

Shoreline Map

Title 16
~~ENVIRONMENT~~SHORELINE MANAGEMENT

Chapters:

~~Division I. Shoreline Management~~

16.05 Shoreline Management Code – Purpose and Scope

16.10 Definitions

16.15 Shoreline Environment Designations

16.20 Downtown Waterfront Environment

16.25 Shoreline Residential Environment

16.30 Urban Conservancy Environment

16.35 Natural Environment

16.40 Aquatic Environment

16.45 General Shoreline Development Standards

16.50 Shoreline Uses

16.55 Shoreline Modifications

16.60 Vegetation Conservation

16.65 Shoreline Density and Dimensions

16.68 Signs

16.70 Subdivisions

16.75 Procedures

~~Division I. Shoreline Management~~

Chapter 16.05

SHORELINE MANAGEMENT CODE – PURPOSE AND SCOPE

Sections:

16.05.010 Purpose.
16.05.020 Citation.
16.05.030 Scope.
16.05.050 Liberal construction.
16.05.060 Relationship to other Kenmore programs.
16.05.070 Severability.

16.05.010 Purpose.

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

~~B. This title contains the regulations of the City of Kenmore *Shoreline Master Program* and the procedures to implement those regulations. These regulations and procedures are consistent with and implement the goals and policies of the City of Kenmore comprehensive plan shoreline subelement.~~

16.05.020 Citation.

This title shall be known as “the shoreline management code.”

16.05.030 Scope.

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

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

C. *Development* proposed on property in or adjacent to water bodies or *wetlands* under the jurisdiction of the Shoreline Management Act shall be evaluated in terms of the goals and policies of the City of Kenmore comprehensive plan shoreline subelement.

D. For purposes of this title, "shall" means a mandate; the action must be done. "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on the policies of Chapter 90.58 RCW and Chapter 173-26 WAC, against taking the action.

16.05.050 Liberal construction.

This title is exempted from the rule of strict construction and shall be liberally construed to give full effect to the purposes for which it was enacted.

16.05.060 Relationship to other Kenmore programs.

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

~~1. Building permit;~~

~~2. Right-of-way construction permit;~~

~~3. Short subdivision approval;~~

~~4. Grading permit;~~

~~5. Site plan approval;~~

~~6. Access permit;~~

~~7. Trail permit;~~

~~8. State flood control zone permit;~~

~~9. Zoning variance;~~

~~10. Conditional use permit;~~

~~11. Comprehensive plan amendment or addition;~~

~~12. Zone reclassification;~~

~~13. Special use permit;~~

~~14. Subdivision approval;~~

~~15. Mobile home park permit;~~

~~16. Mobile home permit;~~

~~17. Recreational vehicle park permit; and~~

~~18. Site plan review permit.~~

B. The following sections of the Kenmore Municipal Code are adopted and incorporated by reference as part of the *Shoreline Master Program*~~1~~:

1. Chapter 1.20 KMC – Code Enforcement.

2. Chapter 18.55 KMC – Critical Areas

~~KMC 18.55.090 – Jurisdiction – Critical areas (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~3. KMC 18.55.130 – Mapping (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~4. KMC 18.55.140 – Signs and fencing of critical areas (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~5. KMC 18.55.150 – Exemptions (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~6. KMC 18.55.190 – Critical areas reports – Requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~7. KMC 18.55.200 – Mitigation requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~8. KMC 18.55.210 – Mitigation sequencing (as adopted in Ordinance No. 12-0334).~~

~~9. KMC 18.55.220 – Mitigation plan requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~10. KMC 18.55.230 – Unauthorized alterations and enforcement (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~11. KMC 18.55.250 – Notice on title (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~12. KMC 18.55.260 – Critical area tracts (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~13. KMC 18.55.270 – Building setbacks (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~14. KMC 18.55.280 – Bonds to ensure mitigation, maintenance, and monitoring (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~15. KMC 18.55.290 – Critical area inspections (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~16. KMC 18.55.300 – Designation and rating of wetlands (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).~~

~~17. KMC 18.55.320 – Wetland performance standards – General requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334, and as further amended through Ordinance 12-0334).~~

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

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

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

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

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

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

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

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

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

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

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

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

30. KMC 18.55.700 – Flood hazard areas (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

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

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

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

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

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

Other sections of the Kenmore Municipal Code cross-referenced in this chapter are provided for reference purposes. Unless specifically stated, the *Shoreline Master Program* does not eliminate or reduce the requirements of any other portion of the Kenmore Municipal Code.

16.05.070 Severability.

If any provision of this title or the master program regulations and procedures hereby adopted or its application to any person or circumstance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this title or the master program.

1

~~Certain c~~*Critical area* code sections from Chapter 18.55 KMC – as they existed at the time of *Shoreline Master Program* approval by the Washington Department of Ecology in ~~2012~~2019 ~~and are described in KMC 16.05.060(B)~~ – have been adopted into the shoreline regulations as part of the *Shoreline Master Program*. Future amendments to ~~these sections of~~ Chapter 18.55 KMC will not be in effect in the shoreline jurisdiction unless and until the *Shoreline Master Program* also is amended.

Chapter 16.10

DEFINITIONS

Sections:

16.10.010 Applicability of RCW and WAC definitions.
16.10.030 Access, public.
16.10.032 Accessory structure.
16.10.035 Accessory use.
16.10.0~~20~~38 Applicant.
16.10.040 Aquaculture.
16.10.050 Associated wetlands.
16.10.060 Average grade level.
~~16.10.070 Backfill.~~
16.10.080 Berm.
16.10.085 Boating facility.
16.10.090 Breakwater.
16.10.100 Bulkhead.
16.10.105 Channel migration zone.
16.10.106 City manager.
~~16.10.107 Commercial development.~~
16.10.110 Critical areas.
~~16.10.115 Critical freshwater habitat.~~
16.10.120 Department.
16.10.130 Development.
~~16.10.140 Director.~~
16.10.150 Dock.
16.10.160 Dredging.
16.10.170 Ecological functions.
16.10.173 Ecosystem-wide processes.
16.10.175 Ell.
16.10.178 Feasible.
16.10.180 Fill.
16.10.185 Fish and wildlife habitat~~s~~ ~~area~~ of importance.
16.10.190 Float.
16.10.200 Floating home.

16.10.205 Floating on-water residence.

16.10.210 Floodplain.

16.10.220 Floodway.

16.20.225 Geotechnical report or geotechnical analysis.

16.10.230 Grading.

~~**16.10.235 Government services.**~~

16.10.240 Groin.

~~**16.10.250 Hatchery.**~~

16.10.260 Height.

16.10.270 Jetty.

16.10.275 Live-aboard.

16.10.280 Marina.

~~**16.10.285 Manufacturing uses.**~~

16.10.~~310~~285 No net loss.

16.10.290 Nonconforming structure.

16.10.300 Nonconforming use.

16.10.320 Non-water-oriented uses.

~~**16.10.330 Normal protective bulkhead common to single-family residences.**~~

~~**16.10.340 Open space, required.**~~

16.10.350 Ordinary high water mark.

~~**16.10.355 Park/recreation recreational/cultural uses.**~~

16.10.360 Pier.

~~**16.10.370 Port.**~~

16.10.375 Ramp

16.10.380 Recreational development.

16.10.390 Redesignation.

~~**16.10.395 Residential development.**~~

16.10.400 Restoration.

~~**16.10.410 Riprap.**~~

16.10.420 Sediment.

~~**16.10.430 Shall.**~~

~~**16.10.440 Should.**~~

16.10.4~~5~~040 Shorelands.

16.10.445 Shoreline buffer.

16.10.460 Shoreline environment.

16.10.470 Shoreline Master Program.

16.10.480 Shoreline modifications.
16.10.500 Shoreline stabilization.
16.10.510 Shorelines.
16.10.520 Shorelines of statewide significance.
16.10.530 Shorelines of the State.
16.10.540 Sign.
~~**16.10.550 Significant vegetation removal.**~~
16.10.560 Solid waste.
16.10.570 Substantial development.
~~**16.10.580 Utilities and utility facilities.**~~
16.10.590 Water-dependent use.
16.10.6~~1~~00 Water-enjoyment use.
16.10.6~~2~~10 Water-oriented use.
16.10.6~~0~~20 Water-related use.
~~**16.10.630 Water transmission pipeline.**~~
16.10.640 Wetlands.

16.10.010 Applicability of RCW and WAC definitions.

The definitions contained in this chapter, KMC Title 18 (zoning code), Chapter 90.58 RCW and Chapter 173-26 WAC shall apply within the shoreline jurisdiction. The definitions in Chapter 90.58 RCW and Chapter 173-26 WAC shall apply in *shorelines* if there is a conflict with the definitions contained in this title and KMC Title 18.

16.10.030 Access, public.

"Public access" means the ability of the general public to reach, touch, and enjoy the water's edge, to travel on waters of the State, and to view the water and the shoreline from adjacent locations.

16.10.032 Accessory structure.

"Accessory structure" means a structure that is incidental to the principal structure.

16.10.035 Accessory use.

~~"Accessory use" means a use that is incidental to a principal use.~~ "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* operation without displacing it. An accessory use may appear as an otherwise permitted, conditional or prohibited use in the use allowances for a given

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*.

16.10.0~~20~~38 Applicant.

"Applicant" means a person who files an application for a *development* proposal, permit or approval under this title and who is either the owner of the land on which that proposed activity would be located, a contract purchaser, or the authorized agent of such a perso~~a property owner or a public agency or public or private utility which owns a right-of-way or other easement or has been adjudicated the right to such an easement pursuant to RCW 8.12.090, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a *development* proposal, permit or approval~~.

16.10.040 Aquaculture.

"Aquaculture" means the culture or farming of fin fish, shellfish, algae or other plants or animals in fresh or marine waters. Excluded from the definition of aquaculture are related commercial or industrial uses such as wholesale or retail sales, or final processing, packing, or freezing.

16.10.050 Associated wetlands.

"Associated wetlands" means *wetlands* that are in proximity to ~~tidal waters,~~ lakes, rivers or streams that are subject to the Shoreline Management Act and either influence or are influenced by such waters. Factors used to determine proximity and influence include, but are not limited to: location contiguous to a shoreline water body, ~~formation by tidally influenced geohydraulic processes,~~ presence of a surface connection, including through a culvert ~~or tide gate~~, location in part or whole within the *floodplain* of a shoreline, periodic inundation, and/or hydraulic continuity.

16.10.060 Average grade level.

"Average grade level" is defined in WAC 173-27-030(3) and (11) as now or hereafter amended; as of (insert date), "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."

~~**16.10.070 Backfill.**~~

~~"Backfill" means the placement of earth material behind a retaining wall or structure.~~

16.10.080 Berm.

"Berm" means one or several linear mounds of sand and gravel at or landward of the *ordinary high water mark* which are normally stable because of material size or vegetation.

16.10.085 Boating facility.

"Boating facility" means developments and uses that support access to shoreline waters for purposes of boating, including *marinas*; community *docks* or *piers* serving more than four single-family residences or multifamily units; public *piers* and *docks*; and community, commercial or public boat launch facilities.

16.10.090 Breakwater.

"Breakwater" means an offshore structure, either floating or not, which may or may not be connected to the shore, such structure being designated to absorb and/or reflect back into the water body the energy of the waves.

16.10.100 Bulkhead.

"Bulkhead" means a solid or open pile wall of rock, concrete, steel or timber or other materials or a combination of these materials erected generally parallel to and near the *ordinary high water mark* for the purpose of protecting adjacent *wetlands* and uplands from waves or currents.

16.10.105 Channel migration zone.

"Channel migration zone" means the area within which a river channel is likely to move over a period of time, and is therefore subject to risk due to stream bank destabilization, rapid stream incision, stream bank erosion, and shifts in the location of stream channels. Channel relocation and stream meander areas as defined at KMC ~~18.55.750~~18.20.450 are channel migration zones.

160.10.106 City manager.

"City manager" means the City of Kenmore city manager or his or her designee(s).

~~**16.10.107 Commercial development.**~~

~~"Commercial development" includes general services, business services, and retail, defined as follows:~~

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

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

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

16.10.110 Critical areas.

"Critical areas" means any of the following areas or ecosystems: aquifer recharge areas, *fish and wildlife habitat areas of importance*, frequently flooded areas, geologically hazardous areas, streams, and *wetlands*, as defined in Chapter 36.70A RCW and this chapter.

~~16.10.115 Critical freshwater habitat.~~

~~"Critical freshwater habitat" shall refer to *shorelines* meeting the definition of "fish and wildlife habitat of importance" in KMC 18.55.520.~~

16.10.120 Department.

"Department" means the ~~department of community development~~city department or outside agency assigned by the *city manager* to administer a portion of the City code.

16.10.130 Development.

"Development" is defined in Chapter 90.58 RCW and WAC 173-27-030 as now or hereafter amended; as of (insert date), "development" means " a use consisting of the construction or exterior alteration of structures; *dredging*; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Shoreline Management Act at any state of water level. Development does not include dismantling or removing structures if there is no other associated development or redevelopment."

~~**16.10.140 Director.**~~

~~"Director" means the director of the department of community development or an authorized designee.~~

16.10.150 Dock.

"Dock" means ~~all platform structures or anchored devices in or~~an anchored walkway or other surface that abuts the shoreline and floats ~~floating up~~on the water ~~bodies~~ to provide moorage for ~~pleasure craft~~watercraft 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~~. Dock is the term which collectively applies to a *ramp* and *float*, or it may be comprised of a *float* only that abuts the shoreline.

16.10.160 Dredging.

"Dredging" means the removal, displacement, and/or disposal of unconsolidated earth material such as sand, silt, gravel, or other submerged materials from the bottom of water bodies, ditches, or *wetlands*; maintenance dredging and/or support activities are included in this definition.

16.10.170 Ecological functions.

"Ecological functions" or shoreline functions means the work performed or role played by the physical, chemical and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

16.10.173 Ecosystem-wide processes.

"Ecosystem-wide processes" is defined in WAC 173-26-020(14) as now or hereafter amended; as of (insert date), "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 shoreline ecosystem and determine both the types of habitat and the associated ecological functions."

16.10.175 Ell.

"Ell" means a terminal *pier* section oriented perpendicular to the *pier* walkway.

16.10.178 Feasible.

"Feasible" is defined in WAC 173-26-020(15) as now or hereafter amended; as of (insert date), "feasible" "means, for the purpose of this title, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

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;

B. The action provides a reasonable likelihood of achieving its intended purpose; and

C. The action does not physically preclude achieving the project's primary intended legal use.

In cases where this title requires certain actions unless they are infeasible, the burden of proving infeasibility is on the *applicant*.

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."

16.10.180 Fill.

"Fill" means the addition of soil, sand, rock, gravel, *sediment*, earth retaining structure or other material to an area waterward of the *ordinary high water mark*, in *wetlands*, or on *shorelands* in a manner that raises the elevation or creates dry land.

16.10.185 Fish and wildlife habitats ~~area~~ of importance.

"Fish and wildlife habitats ~~area~~ of importance" means those habitat areas defined in KMC 18.55.500~~that meet any of the following criteria:~~

~~A. Documented presence of species listed by the federal government or the State of Washington as endangered or threatened; or~~

~~B. Heron rookeries or active nesting trees; or~~

~~C. Class 1~~Category I *wetlands* ~~as defined in KMC 18.55.300; or~~

~~D. Type 1 streams~~S waters ~~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)~~federal Bald and Golden Eagle Protection Act.

Swamp Creek, the Sammamish River, and Lake Washington are all fish and wildlife habitats ~~areas~~ of importance.

16.10.190 Float.

"Float" means a structure or device which ~~is not a breakwater~~floats on the surface of the water and which is moored, anchored, or otherwise secured in the waters of the City of Kenmore and which is not directly connected to or abutting the shoreline. A float which is directly connected to or abutting the shoreline is considered a *dock*.

16.10.200 Floating home.

"Floating home" means a ~~houseboat, boat or building constructed on a float, used in whole or in part for human habitation as a dwelling unit, and which is moored, anchored, or otherwise secured in waters within the City of Kenmore~~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.

16.10.205 Floating on-water residence.

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

A. That is designed or used primarily as a residence on the water and has detachable utilities; and

B. Whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

16.10.210 Floodplain.

"Floodplain" is defined in WAC 173-26-020(19) as now or hereafter amended; as of (insert date), "floodplain" "is synonymous with "100-year floodplain" and means ~~the~~that land area ~~that may be inundated by the base flood of a river or stream~~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 Shoreline Management Act."

16.10.220 Floodway.

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

16.20.225 Geotechnical report or geotechnical analysis.

"Geotechnical report" or "geotechnical analysis" is defined in WAC 173-26-020(21) as now or hereafter amended; as of (insert date), "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."

16.10.230 Grading.

"Grading" means the addition, excavation, movement, or redistribution of soil, sand, rock, gravel, *sediment* or other material on a site in a manner that alters the natural contour of the land.

~~16.10.235 Government services.~~

~~"Government services" means a public agency or utility office, public agency or utility yard, public agency archives, court, police facility, fire facility, caretaker residence/accessory, City government offices, elementary school, middle/junior high school, secondary/high school, specialized instruction school, K-12 educational institutions (public or private), and colleges/universities.~~

16.10.240 Groin.

"Groin" means a barrier-type structure extending from the backshore into the water across the beach. The purpose of a groin is to interrupt *sediment* movement along the shore.

~~16.10.250 Hatchery.~~

~~"Hatchery" means a facility for the rearing and/or holding of fish, the design of which is compatible with the natural environment and contains minimal development necessary for fish propagation.~~

16.10.260 Height.

"Height" is defined in WAC 173-27-030(9) as now or hereafter amended; as of (insert date), "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~~"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 numbers 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."

16.10.270 Jetty.

"Jetty" means an artificial barrier used to change the natural littoral drift to protect inlet entrances from clogging by excess *sediment*.

16.10.275 Live-aboard.

"Live-aboard" means a licensed vessel that is used as a primary residence.

16.10.280 Marina.

"Marina" means a marine retail sales and service use, in which a system of *piers*, buoys, *docks* or *floats* is used to provide moorage, primarily for pleasure craft, for sale or rent, usually on a monthly or yearly basis.

~~**16.10.285 Manufacturing uses.**~~

~~"Manufacturing uses" means production of food and kindred products, winery/brewery, apparel and other textile products, wood products, furniture and fixtures, leather and leather goods, stone/clay/glass/concrete products, computer and office equipment, electronic and other electric equipment, measuring and controlling instruments, printing and publishing, miscellaneous light manufacturing, tire retreading, movie production and distribution, and commercial barge loading and unloading facility.~~

16.10.~~310~~285 No net loss.

Per WAC 173-26-201(2)(c), the concept of "no net loss" of shoreline *ecological functions* means that the Kenmore *Shoreline Master Program* provisions shall, to the greatest extent *feasible*, protect existing shoreline ecological processes and functions and avoid new adverse impacts to ecological processes and functions. The term "net," as used herein, recognizes that any *development* has potential or actual ~~for~~ short-term or long-term impacts and that through application of appropriate development standards and employment of mitigation measures in accordance with the mitigation sequence, ~~avoidance of impacts and use of mitigation measures,~~ those impacts will be addressed in a manner necessary to assure that the end result will not diminish the shoreline resources and values as they currently exist.

16.10.290 Nonconforming structure.

"Nonconforming structure" means a structure that was lawfully constructed prior to the effective date of these regulations, but which no longer conforms to the applicable regulations of the master program.

16.10.300 Nonconforming use.

"Nonconforming use" means a use that was lawfully established prior to the effective date of these regulations, but which no longer conforms to the applicable regulations of the master program.

16.10.320 Non-water-oriented uses.

"Non-water-oriented uses" means those uses that are not *water-dependent*, *water-related* or *water-enjoyment*.

~~**16.10.330 Normal protective bulkhead common to single-family residences.**~~

~~"Normal protective bulkhead common to single-family residences" means a *bulkhead* constructed on a building site zoned to permit one single-family residence and containing one single-family residence.~~

~~**16.10.340 Open space, required.**~~

~~"Required open space" means a portion of the area of a building site, which is required by this title, as set forth in different designations contained in this title, to be maintained as open area to be available for use by the persons specified in a development. Open spaces are required to be free and clear of buildings and structures and to remain open and unobstructed from the ground to the sky.~~

16.10.350 Ordinary high water mark.

"Ordinary high water mark" means the ordinary high water mark as defined in Chapter 90.58 RCW as now or hereafter amended; as of (insert date), "ordinary high water mark" means "that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the *department*: PROVIDED, That in any area where the ordinary high water mark cannot be found, the ordinary high water mark shall be the line of mean high water."

~~**16.10.355 Park/recreation recreational/cultural uses.**~~

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

16.10.360 Pier.

"Pier" means ~~any platform structure, fill, or anchored device in or floating upon water bodies to provide moorage for watercraft engaged in commerce~~an over-water, stationary, 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*.

~~**16.10.370 Port.**~~

~~"Port" means public or private facilities for transfer of cargo or passengers from waterborne craft to land and vice versa; including, but not limited to: piers, commercial float plane moorages, offshore loading or unloading buoys, ferry terminals, and required dredged waterways, moorage basins, and equipment for transferring cargo or passengers between land and water modes. Excluded from this definition and~~

~~addressed elsewhere are airports, marinas, boat ramps or docks used primarily for recreation, cargo storage and parking areas not essential for port operations, boat building or repair. The latter group is considered industrial or accessory to other uses.~~

16.10.375 Ramp.

"Ramp" means a walkway connecting a *pier,* ~~or~~ other shoreward structure or the shoreline to a *float* and providing access between the two.

16.10.380 Recreational development.

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

16.10.390 Redesignation.

"Redesignation" means a change in the *shoreline environment designation* by the procedures provided in Chapter 16.75 KMC.

~~**16.10.395 Residential development.**~~

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

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

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

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

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

~~E. "Accessory uses" means residential accessory uses, home occupation, and home industry.~~

16.10.400 Restoration.

"Restoration" or "ecological restoration" means the reestablishment or upgrading of impaired ecological shoreline processes or functions. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

~~16.10.410 Riprap.~~

~~"Riprap" means hard angular quarry rock used for revetments or other bank stabilization projects.~~

16.10.420 Sediment.

"Sediment" means material settled from suspension in a liquid medium.

~~16.10.430 Shall.~~

~~"Shall" means a mandate; the action must be done.~~

~~16.10.440 Should.~~

~~"Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of Chapter 90.58 RCW and Chapter 173-26 WAC, against taking the action.~~

16.10.4~~50~~40 Shorelands.

"Shorelands" or "shoreland areas" means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the *ordinary high water mark*; *floodways* and contiguous *floodplain* areas landward 200 feet from such *floodways*; and all *associated wetlands* and river deltas ~~associated with the streams and lakes that are~~ subject to the provisions of Chapter 90.58 RCW.

16.10.445 Shoreline buffer.

"Shoreline buffer" means a required vegetation conservation area measured horizontally upland from and perpendicular to the *ordinary high water mark*, as described in KMC 16.65.020.

16.10.460 Shoreline environment.

"Shoreline environment" or "shoreline environment designation" means the categories of *shorelines of the State* established by the City of Kenmore shoreline management master program to differentiate between areas whose features imply differing objectives regarding their use and future development.

16.10.470 Shoreline Master Program.

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

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

2. The shoreline regulations specified in this chapter.

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

1. The shoreline protection and *restoration* plan;

2. The cumulative impacts analysis, which provides a mechanism for examining the success of meeting the requirement for *no net loss* of *ecological functions*;

3. The Shoreline Master Program checklist and public involvement process, which shows how Kenmore meets the procedural requirements for updating the Shoreline Master Program; and

4. The shoreline inventory and characterization, which includes data and analytic methods used to develop Kenmore’s shoreline inventory and shoreline characterization.

16.10.480 Shoreline modifications.

“Shoreline modifications” means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, *breakwater*, *pier*, *fill*, *bulkhead*, or other shoreline structure. Shoreline modifications can include other actions, such as clearing, *grading*, or application of chemicals.

16.10.500 Shoreline stabilization.

“Shoreline stabilization” means actions taken to address erosion impacts to property and dwellings, businesses or structures caused by natural processes, such as current, flood, ~~tides,~~ wind or wave action. These actions include installation or expansion of structures, such as *bulkheads*, *jetties*, *groins* or vegetation, and nonstructural methods, such as relocation of the structure to be protected, or groundwater management.

16.10.510 Shorelines.

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

16.10.520 Shorelines of statewide significance.

"Shorelines of statewide significance" means those *shorelines* described in RCW 90.58.030(2)(e) which are within the City of Kenmore. The Lake Washington shoreline is Kenmore's only "shoreline of statewide significance."

16.10.530 Shorelines of the State.

"Shorelines of the State" means the total of all *shorelines* and *shorelines of statewide significance* within the City of Kenmore.

16.10.540 Sign.

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

~~16.10.550 Significant vegetation removal.~~

~~"Significant vegetation removal" means the removal or alteration of trees, shrubs, and/or ground cover by clearing, *grading*, burning, chemical means, or other activity that causes significant adverse ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect *ecological functions*, does not constitute significant vegetation removal.~~

16.10.560 Solid waste.

"Solid waste" means all putrescible and nonputrescible solid and semisolid wastes including but not limited to garbage, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof and discarded commodities.

16.10.570 Substantial development.

"Substantial development" means any *development* which requires a shoreline management substantial development permit, as defined in RCW 90.58.030(3)(e) as now or hereafter amended.

~~16.10.580 Utilities and utility facilities.~~

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

16.10.590 Water-dependent use.

"Water-dependent use" or "water-dependent development" means a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

16.10.6~~1~~00 Water-enjoyment use.

"Water-enjoyment use" means a recreation use or other use that facilitates *public access* to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. The use must be open to the general public.

16.10.6~~20~~10 Water-oriented use.

"Water-oriented use" means a use that is *water-dependent*, *water-related*, or *water-enjoyment*, or a combination of such uses.

16.10.6~~0~~20 Water-related use.

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

A. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

B. The use provides a necessary service supportive of the *water-dependent uses*, and the proximity of the use to its customers makes its services less expensive and/or more convenient.

~~16.10.630 Water transmission pipeline.~~

~~"Water transmission pipeline" means a facility having as its primary purpose the transmission of water by a municipal purveyor for sale for domestic, commercial, and industrial use.~~

16.10.640 Wetlands.

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

Chapter 16.15

SHORELINE ENVIRONMENT DESIGNATIONS

Sections:

16.15.010 Purpose.
16.15.020 Names of shoreline environment designations.
16.15.030 Limits of shoreline environment designations.

16.15.010 Purpose.

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

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

6.15.020 Names of shoreline environment designations.

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

A. Downtown Waterfront Environment.

B. Shoreline Residential Environment.

C. Urban Conservancy Environment.

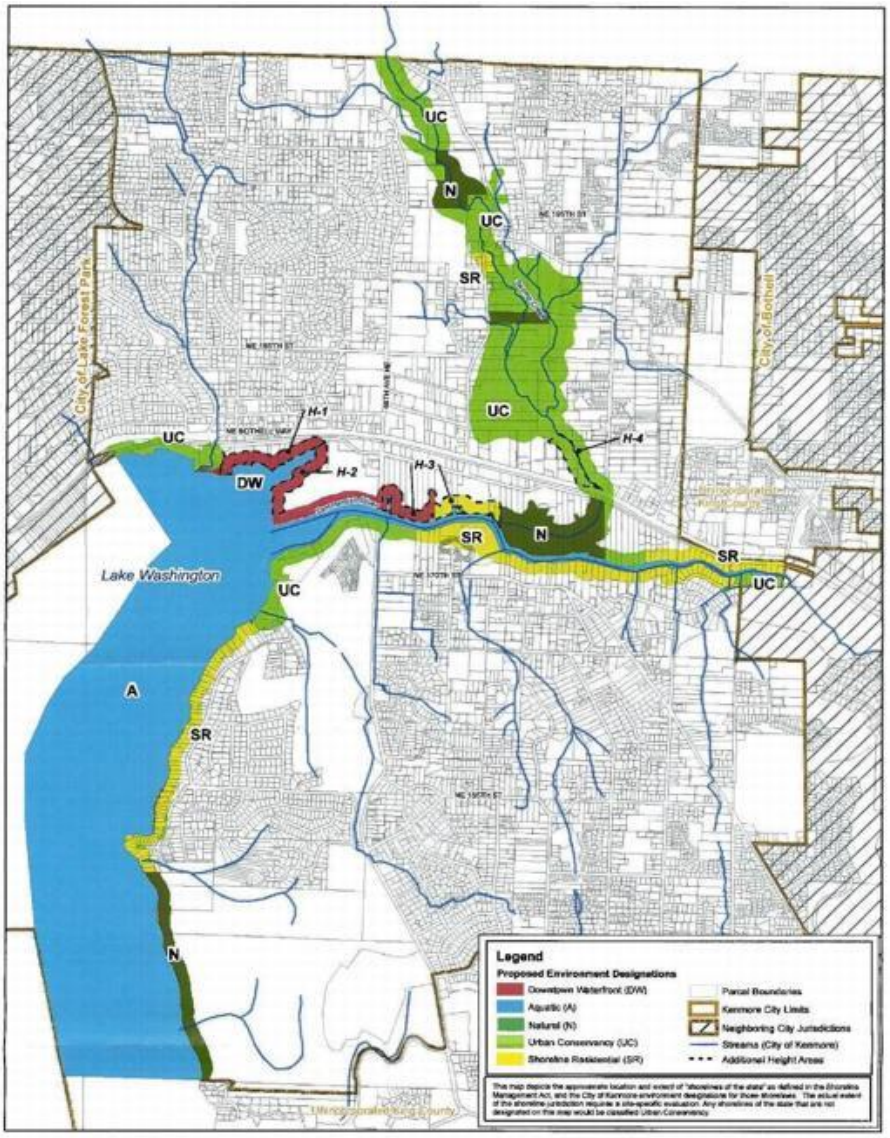
D. Natural Environment.

E. Aquatic Environment.

16.15.030 Limits of shoreline environment designations.

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

(THIS MAP WILL BE REVISED)



Shoreline Master Program Update
City of Kenmore

ESA Adolfson

N

0 500 1,000 Feet

Map 1
Shoreline Environment Designations

SOURCE: King County, (2002)2007; City of Kenmore, 2007; ESA Adolfson, 2008

Exhibit 2

[Ord. 12-0334 § 3 (Exhs. 1, 2).]

Chapter 16.20

DOWNTOWN WATERFRONT ENVIRONMENT

Sections:

16.20.010 Purpose.

16.20.020 Designation criteria.

16.20.010 Purpose.

The purpose of the Downtown Waterfront Environment is to provide for mixed urban *water-oriented uses*, *public access* and recreation while protecting existing *ecological functions*.

16.20.020 Designation criteria.

The shoreline along the contiguous downtown waterfront that is zoned regional business or waterfront commercial in KMC Title 18 and does not meet the requirement for Urban Conservancy or Shoreline Residential designation is to be assigned the Downtown Waterfront Environment designation.

Chapter 16.25

SHORELINE RESIDENTIAL ENVIRONMENT

Sections:

16.25.010 Purpose.

16.25.020 Designation criteria.

16.25.010 Purpose.

The purpose of the Shoreline Residential Environment is to accommodate residential development and appurtenant structures. An additional purpose is to provide appropriate *public access* and recreational uses within new multifamily developments or on public property.

16.25.020 Designation criteria.

The Shoreline Residential Environment designation should be assigned to shoreline areas if they are predominantly developed for single-family or multifamily residential uses or are planned and platted for residential development, and the shoreline areas do not meet the criteria for other designations.

Chapter 16.30

URBAN CONSERVANCY ENVIRONMENT

Sections:

16.30.010 Purpose.
16.30.020 Designation criteria.

16.30.010 Purpose.

The purpose of the Urban Conservancy Environment is to protect and restore *ecological functions* of open space, ~~streams, *wetlands*, and~~ *floodplains* and other sensitive lands, including areas below the *ordinary high water mark* in Swamp Creek, where they exist in urban and developed settings, while allowing a variety of compatible uses.

16.30.020 Designation criteria.

An Urban Conservancy Environment designation is assigned to shoreline areas appropriate and planned for *development* that is compatible with maintaining or restoring *ecological functions* ~~and areas that are not generally suitable for *water-dependent uses*, if any of the following characteristics apply:~~. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated. This designation should be applied when:

A. The shoreline ~~includes wetlands or exceptional riparian corridor that should not be more intensively developed~~is suitable for water-related or water-enjoyment uses;

B. The shoreline includes open space, floodplain or other sensitive areas that should not be more intensively developed;

~~B. The shoreline is in public ownership and has been altered or in public ownership that is small in size and not adjacent to other publicly owned properties;~~

C. The shoreline has been altered but retains important *ecological functions*;

D. The shoreline has potential for ecological *restoration* or is a *restoration* priority; or

E. The shoreline has potential for *development* that is compatible with ecological *restoration*.

Chapter 16.35

NATURAL ENVIRONMENT

Sections:

16.35.010 Purpose.

16.35.020 Designation criteria.

16.35.010 Purpose.

The purpose of the Natural Environment is to protect public shoreline areas that include ecologically intact or minimally altered *shorelines*. Only low intensity uses are to be allowed in this environment to maintain existing ecological processes and functions.

16.35.020 Designation criteria.

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

A. A relatively large, contiguous area of the shoreline is in public ownership and ecologically intact or minimally altered;

B. The shoreline represents ecological processes or functions that provide educational or scientific opportunities; or

C. The shoreline is unable to support active uses or *development* without significant adverse impacts to *ecological functions*.

Chapter 16.40

AQUATIC ENVIRONMENT

Sections:

16.40.010 Purpose.

16.40.020 Designation criteria.

16.40.010 Purpose.

The purpose of the Aquatic Environment is to protect, restore, and manage the unique characteristics and resources of navigable areas waterward of the *ordinary high water mark* on the Sammamish River and Lake Washington.

16.40.020 Designation criteria.

Lake Washington and the Sammamish River below the *ordinary high water mark* are to be designated as Aquatic Environment. In Lake Washington, the Aquatic Environment extends to the centerline of the lake.

Chapter 16.45

GENERAL SHORELINE DEVELOPMENT STANDARDS

Sections:

16.45.010 General shoreline development requirements.

16.45.010 General shoreline development requirements.

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

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

1. The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and groundwater on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.

2. *Solid* and liquid *wastes* and untreated effluents shall not enter any bodies of water or be discharged onto the land.

3. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational *marinas*, commercial moorage, and vessel repair facilities.

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

5. All shoreline developments and uses shall manage increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shoreline properties and features are not adversely affected. Control measures may include, but are not limited to, permeable surfacing, dikes, catch basins, settling ponds, interceptor drains and planted buffers.

6. All shoreline developments and uses shall control erosion during project construction and operation.

7. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance of or minimize adverse impacts to protect *fish and wildlife habitat*s ~~conservation areas~~ *of importance*, including, but not limited to, spawning, nesting, rearing and habitat areas, and migratory routes. Where avoidance of adverse impacts is not practicable, the ~~director~~*city manager* may require that mitigation measures to protect species and habitat functions be developed in consultation with State resource management agencies and federally recognized tribes.

8. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, erosion and accretion.

9. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.

10. Land clearing, *grading*, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for *development*. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.

11. All shoreline *development* shall be located, constructed and operated so as to protect public health, safety and welfare.

12. All *development* activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as *bulkheads*, other bank stabilization, landfills, levees, dikes, *groins*, *jetties* or substantial site regrades.

13. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry ~~by erosion from drainage, high water or other means~~ into any water body.

14. Navigation channels shall be kept free of hazardous or obstructing *development* or uses.

15. Historic properties, including historic buildings, sites, objects, districts and landscapes, prehistoric and historic archaeological resources, and traditional cultural places, shall be protected within *shoreline environments* as follows:

a. Known Historic Properties.

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

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

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

b. Inadvertent Discovery.

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

(2) The ~~director~~*city manager* shall require that a historic property assessment be conducted immediately by a professional archaeologist, ethnographer or historic preservation professional, as applicable, in consultation with State and tribal officials as appropriate, to determine the significance of the discovery and the extent of damage that may have occurred to the resource. The historic property assessment shall be provided to the ~~director~~*city manager* and, if an archaeological site, archaeological artifacts or a traditional cultural place have been discovered, the Washington State Department of Archaeology and Historic Preservation, and any concerned Native American tribes to determine the significance of the discovery in accordance with Chapter 27.53 RCW and Chapter 25-48 WAC; and

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

c. Public Access to Historic Properties.

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

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

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

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

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

17. Heating and cooling equipment may not be placed in waters of the State.