

City of Kenmore



City of Kenmore - 18120 68th Avenue NE - PO Box 82607, Kenmore WA 98028 - Phone: 425-398-8900
Fax: 425-481-3236 - Email: city_hall@kenmorewa.gov

AGENDA REVISED 2/13/12

City of Kenmore CITY COUNCIL SPECIAL EXECUTIVE SESSION

6:00 p.m., Monday, February 13, 2012

**PURSUANT TO RCW 42.30.110(1)(c) - PROPERTY DISPOSITION
Kenmore City Hall, 18120 68th Ave. NE, Kenmore, WA 98028**

City of Kenmore CITY COUNCIL REGULAR MEETING AGENDA

7:00 p.m., Monday, February 13, 2012

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

AGENDA ITEMS ARE SUBJECT TO CHANGE up to and including the time of the meeting; items may be added or dropped. Please call the City Clerk if you have any questions or to confirm the agenda items prior to the meeting at (425) 398-8900, or stop by City Hall at 18120 68th Avenue NE, Kenmore. The agendas are also available on our website at: www.kenmorewa.gov. We are trying to make our public meetings accessible to all members of the public. If you require special accommodations, please call the City Clerk at least three (3) business days prior to the meeting.

- I. CALL TO ORDER REGULAR MEETING - 7:00 p.m.**
- II. ROLL CALL**
- III. FLAG SALUTE**
- IV. AGENDA APPROVAL**
- V. CONSENT AGENDA**
 - A. Minutes of the January 5, 2012 Special Council Executive Session and January 9, 2012 Regular Council Meeting.
 - B. Approval of Claim Nos. 25236 in the Amount of \$2,313.17; 25237-25271 in the Amount of \$132,226.24 for the Period Ending on January 20, 2012 and Claim Nos. 25272-25361 in the Amount of \$588,832.55 for the Period Ending February 3, 2012.
 - C. Authorize the City Manager to Execute Contract Agreement No. 12-C1007 with King County and other Jurisdictions for 2012 Aerial Imagery Acquisition in the Amount of \$10,368.78 - Ron Loewen, City Engineer

V. CONSENT AGENDA

- D. Authorize the City Manager to Sign a Right of Way Deed Dedicating 3,300 Square Feet of Property Owned by the City of Kenmore for NE 181st Street - Ron Loewen, City Engineer
- E. Motion to Set a Special Council Executive Session Meeting for Tuesday, February 14, 2012, 5:30 p.m. - Per RCW 42.30.110(1)(g) REVIEW PERFORMANCE OF AN EMPLOYEE
- F. Motion to Set a Special Council Executive Session Meeting for Thursday, February 16, 2012, 8:30 a.m. to 3:30 p.m. - Per RCW 42.30.110(1)(g) REVIEW QUALIFICATIONS OF APPLICANTS
- G. Motion to Cancel the February 20, 2012 Regular Council Meeting Due to the Legal Holiday.

VI. CITIZEN COMMENTS

VII. PROCLAMATION

- A. National Kids to Parks Day

VIII. BUSINESS AGENDA

- A. Adoption of Ordinance No. 12-0334 Repealing Chapters 16.05, 16.10, 16.20, 16.25, 16.30, 16.35 and Chapter 19.15 of the Kenmore Municipal Code Relating to Shoreline Management; Adopting a Comprehensive Shoreline Master Program Update Consistent With The Shoreline Management Act and State Guidelines; Adopting the Shoreline Environment Designations Map; Renumbering and Revising Chapter 16.40 of the Kenmore Municipal Code Relating to Flood Damage Prevention; Amending 18.55.030, 18.55.040, 18.55.120, 18.55.160, 18.55.170, 18.55.180, 18.55.210, 18.55.320, 18.55.330, 18.55.530, 19.25.020 and 19.30.070 of the Kenmore Municipal Code to be Consistent with the Comprehensive Shoreline Master Program Update; Amending Exhibit 2 of Ordinance No. 10-0312 to Designate Tax Parcels 1426049013 And 1426049014 as Natural; and Providing an Effective Date - Debbie Bent, Department of Planning and Community Development
- B. Discussion and Consideration of a City of Kenmore Transportation Benefit District - Ron Loewen, City Engineer
- C. Briefing on SR 520 Tolling and Monitoring Efforts - Ron Loewen, City Engineer

IX. COUNCILMEMBER COMMENTS/REPORTS

X. ADJOURNMENT

Upcoming Meetings:

February 14, 2012 Tuesday 5:30 p.m. Special Council Executive Session

February 16, 2012 Thursday 8:30 a.m. - 3:30 p.m. Special Council Executive Session Meeting

Regular City Council Meeting - February 13, 2012

Upcoming Meetings:

February 20, 2012 Regular Council Meeting - CANCELLED DUE TO LEGAL HOLIDAY

February 27, 2012 Monday 7:00 p.m. Regular Council Meeting

City of Kenmore, Washington
City Council Special Executive Session Meeting
Minutes
January 5, 2012

CALL MEETING TO ORDER – Deputy Mayor Milton Curtis called the meeting to order at 6:30 p.m.

EXECUTIVE SESSION – Deputy Mayor Milton Curtis adjourned the special meeting at 6:30 p.m. to an executive session to discuss Litigation pursuant to RCW 42.30110(1)(i) and Property Disposition RCW 42.30.110(1)(c). He stated that the executive session will last for 60 minutes and no action is anticipated when the meeting is reconvened back to regular session.

At 7:30 p.m. Deputy Mayor Milton Curtis publicly announced that the executive session has been extended for an additional 60 minutes.

At 8:30 p.m. Deputy Mayor Milton Curtis publicly announced that the executive session has been extended for an additional 30 minutes.

At 9:00 p.m. Deputy Mayor Milton Curtis announced publicly that the executive session has been extended for an additional 15 minutes.

RECONVENE BACK TO REGULAR SESSION – Deputy Mayor Milton Curtis reconvened the meeting back to regular session at 9:15 p.m.

ADJOURNMENT

Deputy Mayor Milton Curtis adjourned the special meeting at 9:15 p.m.

Deputy Mayor Milton Curtis

ATTEST:

Lynn Suskin, City Clerk

City of Kenmore
City Council Regular Meeting
Minutes
January 9, 2012

CALL MEETING TO ORDER – Mayor David Baker called the meeting to order at 6:30 p.m.

EXECUTIVE SESSION – Mayor David Baker adjourned the regular meeting at 6:30 p.m. to an executive session to discuss Litigation pursuant to RCW 42.30110(1)(i). He stated that the executive session will last for approximately 30 minutes and no action is anticipated when the meeting is reconvened back to regular session.

RECONVENE BACK TO REGULAR SESSION – Mayor David Baker reconvened the meeting back to regular session at 7:00 p.m.

Councilmembers present: Mayor David Baker, Deputy Mayor Milton Curtis, Councilmembers Bob Hensel, Brent Smith, Laurie Sperry, Allan Van Ness, and Glenn Rogers

Staff present: Nancy Ousley, Assistant City Manager; Joanne Gregory, Finance Director; Ron Loewen, City Engineer; Bryan Hampson, Director of Land Use and Permitting; Cliff Sether, Police Chief; Rod Kaseguma, City Attorney; and Lynn Suskin, City Clerk

FLAG SALUTE

Cooper Smith led the flag salute.

CITY COUNCILMEMBER SWEARING IN CEREMONY - David Baker, Position 5; Milton Curtis, Position 3; Glenn Rogers, Position 7; and Brent Smith, Position 1, were all sworn into office by Reverend Dennis Trout to all serve for a term of 4 years.

SELECTION OF MAYOR – Councilmember David Baker, past Mayor, chaired the meeting and reviewed the guidelines for nominating and selecting the Mayor and Deputy Mayor. He then opened up the floor for nominations.

Councilmember Milton Curtis nominated David Baker.

Hearing no further nominations, Councilmember David Baker closed the nominations.

City Clerk Suskin conducted the roll call vote. The motion was unanimous, so Mayor David Baker was selected to serve another two-year term as Mayor.

SELECTION OF DEPUTY MAYO

Mayor David Baker opened up the floor for nominations for Deputy Mayor.

Councilmember Milton Curtis nominated Bob Hensel.

Councilmember Laurie Sperry nominated Councilmember Allan Van Ness.

Hearing no further nominations, Mayor David Baker closed the nominations.

City Clerk Suskin conducted a roll call vote for Councilmember Bob Hensel. The motion was unanimous, so Bob Hensel was selected to serve a two-year term on the Council as the Deputy Mayor.

AGENDA APPROVAL

The agenda was approved unanimously.

CONSENT AGENDA

Mayor David Baker pulled Item I "Washington State Legislature 2012 Session: Approve City of Kenmore Legislative Agenda and Priorities" for separate consideration.

Councilmember Allan Van Ness moved to approve the consent agenda as amended. Councilmember Laurie Sperry seconded the motion to approve the Minutes of the November 21, 2011 Regular Council Meeting; Approval of Claim Nos. 25105 - 25155 in the Amount of \$560,349.48 for the Period Ending December 29, 2011; Accept November 2011 Financial Reports for the City of Kenmore; Authorize the City Manager to Execute an Interlocal Agreement, Contract No. 12-C974 with the City of Lake Forest Park for the 2012-2013 Ecology Grant Cycle; Authorize City Manager to Execute Contract No. 12-C975 with Olympic Environmental Resources for Project Management of the 2012 and 2013 City of Kenmore Recycling Projects; Authorize City Manager to Execute Contract No. 12-C976, an Agreement with the Washington State Department of Ecology for the Coordinated Prevention Grant for the 2012-2013 Grant Cycle; Authorize the City Manager to Execute an Interlocal Agreement, Contract No. 12-C979 with the Houston-Galveston Area Council (HGAC) for Cooperative Purchasing; Authorize the City Manager to Execute Contract Agreement 12-C980 with Comcast for Undergrounding Aerial Facilities as part of the 61st Avenue NE and NE 181st Street Traffic Signal Improvement Project; and Motion to Cancel the Regularly Scheduled Council Meeting for Monday, January 16, 2012 due to the Legal Holiday. The motion passed unanimously.

Discussion followed on the Washington State Legislature 2012 Session: Approve City of Kenmore Legislative Agenda and Priorities. Nancy Ousley, Assistant City Manager, was present to provide a staff report.

Council discussed and provided staff direction on what their Legislative agenda and priorities are.

Nancy Ousley, Assistant City Manager, announced that at an upcoming Council meeting there will be an update from our lobbyist Gordon Thomas Honeywell.

CITIZEN COMMENTS

Dave Crawford, 7534 NE 175th St., Kenmore, was present to submit into the record a booklet titled "Apartments by Anhalt." He was also present to discuss the declining economy in comparison to the declining economy of the 1930's.

BUSINESS AGENDA

Resolution No. 12-194 of the City of Kenmore, Washington, Amending Exhibit A to Resolution No. 11-186 to Adopt the City of Kenmore's 2012 Fee Schedule - Bryan Hampson, Director of Land Development and Permitting; and Ron Loewen, City Engineer, were present to review and answer any questions relating to the 2012 Fee Schedule.

Discussion followed.

Councilmember Bob Hensel moved to table the discussion of Resolution No. 12-194 of the City of Kenmore, Washington, Amending Exhibit A to Resolution No. 11-186 to Adopt the City of Kenmore's 2012 Fee Schedule for two weeks to further the discussion/consideration at the January 23,2012. The motion passed 5-2 with Councilmember Glenn Rogers and Councilmember Laurie Sperry voting no.

COUNCILMEMBER COMMENTS/REPORTS

Councilmember Laurie Sperry moved to direct staff to advertise for the vacant adult and youth member positions on the Kenmore Library Advisory Board (KLAB); and after receiving the applications, have the current KLAB members interview the applicants and bring back their recommendations. Mayor David Baker seconded the motion. The motion passed unanimously.

Councilmember Bob Hensel welcomed new Councilmember Brent Smith.

Mayor David Baker reviewed that he had recently traveled to Washington D.C. to meet with Kenmore's Representatives.

ADJOURNMENT

Mayor David Baker adjourned the regular meeting at 8:10 p.m.

Mayor David Baker

ATTEST:

Lynn Suskin, City Clerk

City of Kenmore
Voucher Certification and Approval

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein and that the following claims, paid by checks 25156 - 25236 which total \$333,722.78 are just, due, and unpaid obligations against the City of Kenmore/King County/Washington, and that I am authorized to authenticate and certify to said claims.


 City Manager Date 11/17/12


 Finance Director Date 11/17/12

Check #	Vendor Name	Description	Check Amt
25156	DURRANT, JEFF	Travel Expense	\$ 322.00
25157	MINZGHOR, NICHOLAS	Travel Expense	322.00
25158	AWC EMPLOYEE BENEFITS	Payroll Entry	35,631.43
25159	BANNER BANK	Registration, Meals, Lodging	2,019.39
25160	BANNER BANK NO	Registration, Training, Parking	950.00
25161	BANNER BANK KENMORE	Meals, Lodging, Transportation	1,420.04
25162	BANNER BANK JGORDON	Training, Registration, Supplies	1,435.21
25163	NATIONWIDE FINANCIAL 401a	Payroll Entry	10,376.82
25164	NATIONWIDE RETIREMENT SOLUTIONS 457	Payroll Entry	1,570.00
25165	ICMA RETIREMENT TRUST 457 - 304745	Payroll Entry	2,003.84
25166	DRS 457	Payroll Entry	1,737.50
25167	CITY OF KENMORE FS	Payroll Entry	176.96
25168	BANK OF AMERICA 941	Payroll Entry	11,035.71
25169	DEPARTMENT OF RETIREMENT SYSTEMS	Payroll Entry	9,133.71
25170	STATE OF FLORIDA DISBURSEMENT UNIT	Payroll Entry	275.00
25171	ESA ADOLFSON	Squire's Landing Prof Svc/ Nov.	175.00
25172	CARLSON, THOMAS G.	Qtr 3 2011 Sales Tax Conversion	219.46
25173	CASCADE PEST CONTROL	Rhododendron Park Rodent Svc.	142.35
25174	CATHOLIC COMMUNITY SERVICES	4th Qtr 2011 (EAP Program)	1,500.00
25175	CENTER FOR HUMAN SERVICES	Qtr 4 2011 Northshore Family Ctr.	7,900.00
25176	CITY OF BELLEVUE	4th Qtr Pooled Human Svcs Prog	22,279.00
25177	CITY OF LAKE FOREST PARK	Dec. Billing, Backhoe & Materials	59,661.36
25178	CLYDE/WEST	Street Sweeper Parts	59.93
25179	CONSEJO COUNSELING & REF	4th Qtr 2011 Domestic Violence	875.00
25180	ALLIED WASTE SERVICES #172	Solid Waste Svc - Parks - 12/2	730.05
25181	EVERGREEN PRINT SOLUTIONS	Treasurer's Receipt Books	474.59
25182	FRUHLING SAND & TOPSOIL	Brush & Asphalt Dumping	180.00
25183	FULL MAINTENANCE GARDENING	11/19-12/23/11 Landscaping	373.40
25184	GEOENGINEERS INC	10/8-12/2/11 Consult/ Feasel Stairs	1,060.00
25185	GRAY & OSBORNE, INC	Prof. Svcs. 11/13-12/10/11	5,065.22
25186	HOPELINK	Qtr 4 2011 Housing/ Emerg Shelter	11,730.00
25187	INSTITUTE FOR FAMILY DEVELOPMENT	4th Qtr 2011 (PACT)	3,000.00

VB. Approval of Claim Nos. 25236 in the Amount of \$2,313.17; 25237-25271 in the Amount of \$132,226.24 for the Period Ending on January 20, 2012 and Claim Nos. 25272-25361 in the Amount

25188	KING COUNTY ANIMAL SVCS	Animal Licensing Dec. 2011	210.00
25189	KING COUNTY FINANCE	Nov. Adult Detention Work Prog.	24,161.45
25190	KING COUNTY SHERIFF	Kenmore Schools O.T. Nov. 2011	7,705.77
25191	LIGHTHOUSE CONSULTING INC	Nov. 2011 Anti-Spam/ Anti-Virus	1,521.50
25192	NEXTEL COMMUNICATIONS	Cell Phones 11/25-12/24/11	897.83
25193	NORTHSHORE FIRE DEPT	Dec. Fire Marshal Review Svc.	40.00
25194	NORTHSHORE SENIOR CENTER	Qtr 2 2011 Senior Program	5,500.00
25195	NORTHSHORE YMCA	Qtr 1 - 4, 2011 School Age Program	7,096.00
25196	NORTHSHORE YOUTH & FAMILY SERVICES	Qtr 4 2011 Counseling Svcs.	7,500.00
25197	OFFICE MAX	Office Supplies	1,031.10
25198	OFFICE TEAM	Temp. Employee Dec. 2011	667.82
25199	OTAK	Professional Services thru 12/2/11	8,197.64
25200	PACIFIC TOPSOILS	11/28-12/21/11 Materials Disposal	378.41
25201	PUGET SOUND ENERGY	School Zone Sign 11/16-12/14/11	10,189.12
25202	CEMEX	Juanita & 181st Repairs 12/16/11	191.63
25203	SEATTLE TIMES	Advertising Dec. 2011	457.52
25204	STAPLES ADVANTAGE	Self Inking Stamps	197.10
25205	STEWART BEALL MACNICHOLS	Public Defender Svc. Dec. 2011	3,000.00
25206	TOTAL LANDSCAPE CORP	Parks & Facility Landscaping	6,404.21
25207	WASHINGTON STATE DEPT OF INFO SERV	Dec. 2011 List Serv	210.00
25208	WA STATE DEPT OF TRANSPORTATION	61st Signal Design	120.39
25209	VOID	VOID	VOID
25210	WONDERLAND DEVELOPMENT	4th Qtr 2011	2,875.00
25211	KING COUNTY RECORDER'S OFFICE	Recording Fee - Code Violation	68.00
25212	VOID	VOID	VOID
25213	MAIL FINANCE	Postage Machine Lease	250.76
25214	KONICA MINOLTA BUSINESS SOLUTIONS	4th Qtr 2011	2,185.75
25215	SOUND LAW CENTER	Fuhrwerk Prof. Svcs Dec. 2011	570.50
25216	AT WORK	4th Qtr 2011 11-C914	625.00
25217	DIGITAL REPROGRAPHICS SERVICES INC.	Printing Charges	566.00
25218	QUALITY BUSINESS SYSTEMS	Dec. Copier Use	37.74
25219	GRAINGER	Facility Maintenance Supplies	29.24
25220	COMMERCIAL SOUND, INC.	Wireless Microphone	702.26
25221	GORDON, JENNIFER	Reimburse Mileage 12/20/11	33.86
25222	UNIVERSAL FIELD SERVICES	Nov. 2011 Abagobez Acquisition	1,535.20
25223	ALLIANCE OF PEOPLE W/ DISABILITIES	4th Qtr 2011 Youth in Transition	750.00
25224	COASTAL WEAR PRODUCTS INC	Street Sweeper Brooms	1,239.00
25225	PASSPORT TRAVEL AND TOURS	Council Travel - WA DC/ MN/ AZ	2,127.10
25226	GORDON THOMAS HONEYWELL	Dec. 2011 Govt. Affairs Svcs.	3,064.26
25227	ESPRESSO WORKS	10/21 & 12/21/11 Meetings	150.00
25228	SARAH ROBERTS	Dec., 2011 Prosecution Svcs.	9,300.00
25229	FRONTIER	Dec. City Hall Phone Svc	741.60
25230	PAWS	Animal Sheltering Dec. 2011	640.00
25231	INDEPENDENT STATIONERS	Paper	432.36
25232	SNOHOMISH COUNTY SHERIFF'S OFFICE	Jail Service Fees for Dec. 2011	22,514.00
25233	NORTH COAST ELECTRIC	Ballasts for Garage Lights	854.52
25234	BROADCAST MUSIC, INC.	Licensing Agreement	309.00
25235	SESAC	Licensing Agreement	296.00
25236	COLUMBIA RIDGE LANDFILL		2,313.17
			<u>\$ 333,722.78</u>

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PRIOR VENDOR ACTIVITY**Previous YTD**

3CMA	\$	375.00
A+ CONFERENCING		267.95
AA PARTY RENTALS		3,445.41
ABBOTT, CARRIE		250.00
ACTION ENTERTAINMENT		1,090.00
ACTIVE SHOOTER TRAINING LLC		815.90
ADT SECURITY SERVICES		1,373.26
ADVANCE TESTING & SERVICE INC		459.00
AFLAC		11,088.34
ALCALDE & FAY		75,594.62
ALLIANCE OF PEOPLE W/ DISABILITIES		2,636.25
ALLIED WASTE SERVICES #172		10,001.32
ALPHA COURIER SERVICES		33.60
ALTA MAXINE MELVIN		85,200.00
AM TEST, INC		1,620.00
AMERICAN ASSOC OF CODE ENFORCEMENT		75.00
AMERICAN GENERAL		5,630.29
AMERICAN PLANNING ASSOCIATION		1,501.00
AMERICAN PUBLIC WORKS ASSOCIATION		1,035.42
AMERICAN REPROGRAPHICS COMPANY		127.43
AMERICAN SOCIETY OF COMPOSERS		305.00
AMES2BFIT		100.00
ANDERSON, LAURI		193.19
ANDONIADIS INC		1,742.90
APPLIED PROFESSIONAL SERVICES INC		1,536.93
ARGENS		15.88
ARTS OF KENMORE		500.00
ASP, ANGELA		210.00
ASSOCIATION OF WA CITIES		13,970.00
AT WORK		1,855.25
AURORA RENTS		2,518.04
AWC EMPLOYEE BENEFITS		401,319.68
BABB, MICHELLE		186.92
BADGLEY'S LANDSCAPE LLC		2,190.00
BAKER, DAVID		3,128.45
BANK OF AMERICA 941		317,263.75
BANNER BANK BH		931.61
BANNER BANK CS		7,749.45
BANNER BANK DB		2,296.84
BANNER BANK JG		8,219.69
BANNER BANK JGORDON		13,492.43
BANNER BANK KENMORE		32,784.66
BANNER BANK LB		2,120.28
BANNER BANK LD		7,827.58
BANNER BANK NO		5,882.96
BARCLAY DEAN ARCHITECTUAL PRODUCTS		711.75

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BASTYR UNIVERSITY	220,783.70
BAUER, ANDREW	884.68
BAYLES, GREGORY	50.00
BEEGEE TOLPA	700.00
BEKINS NORTHWEST	303.45
BENNETT, STUART	29.36
BERKEY SUPPLY INC	18.52
BIG BUBBA DOG LLC	1,500.00
BIS	4,685.00
BLACKBAUD	4,956.23
BLUE WAVE CONSTRUCTION, INC	24,671.83
BODINE CONSTRUCTION SERVICES, INC	383.25
BOTHELL SKI & BIKE	120.44
BOWHEAD ENVIRONMENTAL & SAFETY	414.59
BRABEC, MARY	3,500.00
BRADY, DAVID	84.00
BRAVO ENVIRONMENTAL SERVICE	153,410.05
BUILDERS EXCHANGE OF WASHINGTON INC	97.75
BULGER SAFE & LOCK, INC.	98.55
C. ANDERSON & CO.	1,209.98
CALIBRE HOMES, INC	7,500.00
CALPORTLAND COMPANY	4,932.85
CANOPIES BY FRED	647.15
CARLSON, THOMAS G.	1,193.31
CASCADE PEST CONTROL	1,954.61
CATHOLIC COMMUNITY SERVICES	6,012.75
CEMEX	7,485.03
CENTER FOR HUMAN SERVICES	31,940.00
CHAMPION COURIER	91.96
CHILDERS, MARK	1,069.96
CITY OF BELLEVUE	527,542.29
CITY OF CLYDE HILL	583.00
CITY OF KENMORE FS	4,849.79
CITY OF LAKE FOREST PARK	724,778.87
CITY OF RENTON	980.00
CITY OF SHORELINE	1,676.97
CLARITY SIGNS	2,788.43
CLUB NORTHWEST	30.00
CLYDE/WEST	1,215.87
COASTAL WEAR PRODUCTS INC	2,701.02
COASTWIDE LABORATORIES	6,328.93
CODE 4 PUBLIC SAFETY EDUCATION	198.00
CODE PUBLISHING COMPANY	547.50
COFFMAN, JON	183.00
COLUMBIA BANK	11,099.56
COLUMBIA FORD	26,352.28
COLUMBIA RIDGE LANDFILL	23,590.45
COMCAST	1,538.60
COMMERCIAL SOUND, INC.	17,539.67

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COMPASS POINTE CONDOMINIUM HOA	750.00
CONSEJO COUNSELING & REF	3,875.00
CONSOLIDATED PRESS	5,043.08
CONTECH STORMWATER SOLUTIONS, INC	15,444.98
CORCORAN, JOHN	1.55
CORNERSTONE ROOFING	98.50
COSTCO RETAIL SERVICES	27.62
COX PRINTING & SIGNS	533.82
CPSWQ	100.00
CROWN PRODUCTS	2,042.85
CSAT, LLC	1,600.00
CURRY, ROSS	183.00
CUSTER SPORTSMEN'S CLUB, INC	150.00
DAILY JOURNAL OF COMMERCE	1,772.20
DANSOUND INC	7,144.89
DAS MANUFACTURING, INC.	10,413.75
DBM CONTRACTORS, INC	215,717.62
DELL MARKETING L.P.	4,275.06
DEPARTMENT OF ECOLOGY	10,373.34
DEPARTMENT OF LABOR AND INDUSTRIES	38,169.11
DEPARTMENT OF LICENSING	10.00
DEPARTMENT OF RETIREMENT SYSTEMS	222,624.86
DEVRIES, DENIS	253.20
DIAMOND TRAFFIC PRODUCTS	190.36
DIGITAL REPROGRAPHICS SERVICES INC.	1,591.79
DISSTON, GALEN	1,500.00
DOWL HKM	12,595.00
DRS 457	43,414.66
DUNN LUMBER COMPANY	1,759.14
DURRANT, JEFF	879.25
EARTHCORPS	15,204.18
EAST JORDAN IRON WORKS	1,152.48
EDGE CONCRETE CONSTRUCTION, LLC	1,250.00
EFFICIENCY INC	949.37
EMERGENCY FEEDING PROGRAM	3,750.00
EMERGENCY SERVICE COORDINATING AGCY	56,137.00
EMPLOYMENT SECURITY DEPT	5,357.02
ENTERTAINMENT FIREWORKS INC	12,025.00
ENVIRONMENTAL SYSTEMS RESEARCH INST	2,554.01
ESA ADOLFSON	12,384.89
ESPRESSO WORKS	75.00
EVANS, C. WILLIAM	5,247.00
EVERETT STEEL	191.98
EVERGREEN PRINT SOLUTIONS	655.54
EVERGREEN SAFETY COUNCIL	175.00
EVER-MARK, LLC	2,121.98
EXTREME PROMOTIONS	860.00
FAZZARI MARKETING	1,689.29
FEARON, CLINTON	2,000.00

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FEASEL, ROBERT	665.00
FEDEX OFFICE	26.61
FERGUSON ENTERPRISES INC	19,637.23
FIRE PROTECTION, INC	3,506.16
FIRST AMERICAN TITLE	1,171.12
FPOD LLC	7,500.00
FRONTIER	62,550.13
FRUHLING SAND & TOPSOIL	2,615.37
FULL MAINTENANCE GARDENING	4,554.30
GATES, JANICE	71.96
GEOENGINEERS INC	40,853.30
GIBBONS & RIELY, PLLC	750.00
GORDON DERR	11,454.89
GORDON THOMAS HONEYWELL	40,058.12
GOVERNMENT FINANCE OFFICERS ASSOC	190.00
GRAHAM CONTRACTING LTD.	443,599.44
GRAINGER	6,966.03
GRAY & OSBORNE, INC	24,812.16
GREGORY, JOANNE	1,151.60
GREYSTONE COMMERCIAL SERVICE LP	174.79
GRIESEL, LEONARD	5,849.50
H.W. LOCHNER, INC.	275,120.74
HAMMOND COLLIER WADE LIVINGSTONE	1,770.00
HANSON CONSULTING SERVICES	1,269.00
HARRIS COMPUTER SYSTEMS	6,317.06
HARRIS, LESLIE	864.67
HDR	200,626.61
HEARTLAND	22,920.97
HEATERMEALS	1,193.21
HEISSLER, ANDREW	1,800.00
HERO HOUSE	1,548.75
HICKS, KATHLEEN	97.64
HOME DEPOT CREDIT SERVICES	1,434.37
HONEY BUCKET	1,020.40
HOPELINK	52,105.25
HOPKINS, CRAIG	557.31
HORIZON DISTRIBUTORS INC	680.48
HULQUIST HOMES	7,500.00
ICMA RETIREMENT TRUST 457 - 304745	60,684.33
ICOMPASS TECHNOLOGIES, INC.	16,600.00
INDEPENDENT STATIONERS	5,730.38
INFRASOURCE CONTRACTING LLC	29.36
INGLEWOOD GOLF COURSE	2,475.00
INSLEE, BEST, DOEZIE & RYDER, P.S.	277,552.16
INSTITUTE FOR FAMILY DEVELOPMENT	12,938.00
INSTRUMENTATION NORTHWEST INC.	1,560.58
INTEGRA TELECOM	10,420.22
INTERNATIONAL CITY/CNTY MGMT ASSOC	2,154.43
INTERNATIONAL INST OF MUNI CLERKS	560.00

VB. Approval of Claim Nos. 25236 in the Amount of \$2,313.17; 25237-25271 in the Amount of \$132,226.24 for the Period Ending on January 20, 2012 and Claim Nos. 25272-25361 in the Amount

IRIS WINDOW COVERINGS NW, INC.	1,382.81
IWORQ SYSTEMS	8,600.00
J&K ASSOCIATES	10,789.04
J. MURPHEY CONSTRUCTION	42.67
JACOBSON, BETTS & COMPANY	6,533.12
JBS INSTRUMENTS	3,360.75
JET CITY PRINTING	4,439.65
JOHN E. REID & ASSOCIATES	580.00
JONES & STOKES	129.31
JORVE CORPORTATION	46,509.16
JRW ENTERPRISES	413.36
JURASSIC PARLIAMENT	3,306.07
KCDA PURCHASING COOP	9,328.55
KEEP POSTED INC	173.00
KELLY PRINTING & GRAPHICS	6,908.93
KELLY THOMAS, INC.	11,587.29
KENMORE AIR	275.00
KENMORE ELEMENTARY PTA	5,666.67
KENMORE HERITAGE SOCIETY	25.00
KENYON DISEND, PLLC	14,104.37
KEY EQUIPMENT FINANCE	2,697.00
KING COUNTY	1,672.65
KING COUNTY W.L.R.D.	352,832.05
KING COUNTY ANIMAL SVCS	5,870.00
KING COUNTY ARCHIVES	82.90
KING COUNTY DEPT OF CONST PROP SVCS	1,503.57
KING COUNTY DISTRICT COURT	35,497.00
KING COUNTY FINANCE	1,319,984.66
KING COUNTY FIRE DISTRICT	850.00
KING COUNTY FLEET ADMIN	441.31
KING COUNTY LIBRARY SYS	33,440.00
KING COUNTY OFFICE PUBLIC DEFENSE	1,568.36
KING COUNTY PARKS	5,339.21
KING COUNTY PUBLIC DEFENSE	9,329.94
KING COUNTY RADIO COMM SERVICES	9,704.05
KING COUNTY RECORDER'S OFFICE	751.00
KING COUNTY SHERIFF	3,207,036.81
KING COUNTY TREASURY	38,810.75
KOMPAN, INC	345.64
KONICA MINOLTA BUSINESS SOLUTIONS	7,876.41
KUKER-RANKEN INC	536.98
KUSTOM SIGNALS, INC.	500.33
LACHAPPELLE, NATALIE	300.00
LEE, MYUNG	2,252.00
LIGHTHOUSE CONSULTING INC	33,651.32
LOEWEN, RON	76.00
LONGFELLOW, JONATHAN	420.00
LORBIECKI, GLENN	50.00
LYONS, KEN	6,687.40

VB. Approval of Claim Nos. 25236 in the Amount of \$2,313.17; 25237-25271 in the Amount of \$132,226.24 for the Period Ending on January 20, 2012 and Claim Nos. 25272-25361 in the Amount

MAACO	368.96
MAAS, NORMAN	2,520.00
MAGEE, STEVEN	9,192.00
MAIL FINANCE	3,272.42
MATRIX CONSULTING GROUP	40,000.00
McKEE & SCHALKA	5,500.00
MCMAMARA SIGNS	191.63
MICHAEL TERRY'S TRAPPING	960.00
MIDMOUNTAIN CONTRACTORS, INC	827,157.45
MILNE ELECTRIC, INC	24,991.83
MINZGHOR, NICHOLAS	1,495.68
MOBILE ELECTRICAL DISTRIBUTORS INC	35.30
MR. T'S TROPHIES	1,550.33
NAMI EASTSIDE	400.00
NATIONAL ALLIANCE ON MENTAL ILLNESS	1,481.50
NATIONAL ASSOC OF PARLIAMENTARIANS	85.00
NATIONAL BARRICADE CO	2,943.91
NATIONAL LEAGUE OF CITIES	5,439.00
NATIONAL LIFE OF VERMONT	4,818.81
NATIONWIDE FINANCIAL 401a	260,989.54
NATIONWIDE RETIREMENT SOLUTIONS 457	35,210.00
NEBC	195.00
NetVersant	9,959.70
NEXTEL COMMUNICATIONS	10,733.61
NEXXPOST	287.31
NORTH COAST ELECTRIC	1,642.61
NORTH CREST DEVELOPMENT CORP.	1,794.00
NORTHSHORE FIRE DEPT	8,582.60
NORTHSHORE PAVING INC	537.90
NORTHSHORE SCHOOL DISTRICT	1,364.45
NORTHSHORE SENIOR CENTER	18,250.00
NORTHSHORE UTILITY DIST	113,532.77
NORTHSHORE YOUTH & FAMILY SERVICES	32,500.00
OAC SERVICES, INC	46,354.71
OAKSTONE WELLNESS	128.07
OFFICE CLEANING CREW	7,862.85
OFFICE DEPOT	917.01
OFFICE MAX	320.09
OFFICE TEAM	13,715.91
OLYMPIC ENVIRONMENTAL RESOURCES	46,276.89
OM WORKSPACE	5,418.58
ORB ARCHITECTS	8,725.97
OSTROM DRUGS	557.40
OTAK	182,109.66
OUSLEY, NANCY	1,240.36
PACE ENGINEERS, INC.	3,057.50
PACIFIC NW TITLE CO OF WA, INC	1,171.00
PACIFIC TOPSOILS	14,907.04
PASSPORT TRAVEL AND TOURS	5,130.80

VB. Approval of Claim Nos. 25236 in the Amount of \$2,313.17; 25237-25271 in the Amount of \$132,226.24 for the Period Ending on January 20, 2012 and Claim Nos. 25272-25361 in the Amount

PAWS	9,865.00
PENDLETON CONSULTING LLC	10,044.47
PEOPLES STORAGE	2,422.00
PERKINS COIE	10,805.59
PETTY CASH CUSTODIAN	1,985.56
PHOTOTAINMENT	876.00
PHSI PURE WATER FINANCE	1,509.45
PLATT	506.41
PRIME PACIFIC BANK	60.00
PROTHMAN COMPANY	9,053.25
PRO-VAC	15,817.98
PRSA	554.00
PRUDENTIAL	1,492.52
PSR MECHANICAL	735.84
PUGET SOUND BUSINESS JOURNAL	94.00
PUGET SOUND CLEAN AIR AGENCY	10,989.00
PUGET SOUND ENERGY	711,883.33
PUGET SOUND FINANCE OFFICERS ASSOC	125.00
PUGET SOUND REFRIGERATION	2,207.52
PUGET SOUND REGIONAL COUNCIL	7,390.00
PURDY, MICHAEL E.	150.00
PURE WATER TECH OF PUGET SOUND	136.88
QUALITY BUSINESS SYSTEMS	17,909.73
RANDALL, BRIAN	296.37
RCS VALUATION CORP	2,000.00
RICHARD & SHARON ARKLEY LIVING TRUS	2,300.00
RODGERS, MICHAEL	184.00
ROGERS, GLENN	2,512.74
RON KASPRISIN AIA	902.29
RONGERUDE, JOHN	150.00
ROUNDY, CASSANDRA	50.00
RUEB, DAVID	1,440.61
S & S UPHOLSTERY	2,135.25
SAFRIN, PATTY	979.57
SARAH ROBERTS	110,700.00
SCHINDLER ELEVATOR CORPORATION	2,106.01
SCHLOTZHAUER FIRM PS	13,080.00
SEATTLE TIMES	7,642.92
SEATTLE VISITING NURSE ASSOCIATION	112.00
SECRETARY OF STATE	55.00
SEES TREES AND EXCAVATION INC	4,479.84
SEMAIHMUO RESORT	1,041.12
SERVICE ELECTRIC	869.08
SHARAM FAMILY	19,444.40
SHATTUCK, NANCY	8,800.00
SHORELINE PUBLIC SCHOOLS	450.00
SHRED-IT	693.00
SIMPSON, ARTHUR	969.00
SKYLINE WINDOWS, INC.	134.69

VB. Approval of Claim Nos. 25236 in the Amount of \$2,313.17; 25237-25271 in the Amount of \$132,226.24 for the Period Ending on January 20, 2012 and Claim Nos. 25272-25361 in the Amount

SMITH, JARRETT	50.35
SNOHOMISH COUNTY	78,742.06
SNOHOMISH COUNTY SHERIFF'S OFFICE	95,262.13
SOUND LAW CENTER	16,177.00
SOUND PUBLISHING, INC.	6,207.30
SPECIAL ASPHALT PRODUCTS	5,996.09
SPERRY, LAURIE	250.00
ST EDWARD STATE PARK	9,465.22
STAPLES ADVANTAGE	7,273.19
STAR NORTHWEST, INC	56,941.47
STARLIGHT CHILDRENS FOUNDATION	190.00
STATE AUDITOR'S OFFICE	20,279.22
STATE OF FLORIDA DISBURSEMENT UNIT	2,750.00
STEPHENS, MARY	12,500.00
STEWART BEALL MACNICHOLS	44,300.00
STOUDER, FRED	1,359.01
STRIPE RITE, INC.	2,200.95
SUBURBAN CITIES ASSOC	11,919.87
SUNBELT	4,927.56
SUSKIN, LYNN	990.21
SUSSMAN/PREJZA & CO, INC	52,154.84
TACOMA SCREW PRODUCTS, INC.	159.70
TAYLOR, GARY	2,800.00
TELESYSTEMS WEST	2,271.31
THE KIPLINGER TAX LETTER	89.00
THE PIN CENTER	920.00
THE WILDERS	2,000.00
TIGER CONSTRUCTION & EXCAVATION	5,950.00
TIMEMARK INCORPORATED	106.76
TITAN OUTDOOR, LLC	862.00
TOTAL LANDSCAPE CORP	87,678.53
TOWN & COUNTRY FENCE, INC	427.05
TOWNE CENTRE HARDWARE	1,090.57
TRAFFIC COUNT CONSULTANTS, INC	5,250.00
TRAN, SHAUN & DINH LIEU	415.80
TRANE U.S. INC.	10,471.69
T-TRAN LANDSCAPING & CONCRETE	8,760.00
ULI/SEATTLE DISTRICT CNCL	45.00
UNITED STATES POSTMASTER	1,798.44
UNITED WAY OF KING COUNTY	1,495.00
UNIVERSAL FIELD SERVICES	21,222.34
UNIVERSITY OF WASHINGTON	1,210.00
UNIVERSITY OF WASHINGTON, BOTHELL	5,000.00
URBAN LAND INSTITUTE	225.00
US POSTAL SERVICE (HASLER)	8,228.32
VAN NESS, ALLAN	3,372.36
VAUGHAN, KENT	76.00
W.S.S.R.O.A.	450.00
WA ASSOC FOR FLOODPLAIN MANAGEMENT	100.00

VB. Approval of Claim Nos. 25236 in the Amount of \$2,313.17; 25237-25271 in the Amount of \$132,226.24 for the Period Ending on January 20, 2012 and Claim Nos. 25272-25361 in the Amount

WA ASSOC OF CODE ENFORCEMENT	40.00
WA CITIES INSURANCE AUTHORITY	124,502.00
WA FINANCE OFFICERS ASSOCIATION	450.00
WA GUARANTEED EDUCATION TUITION	5,602.50
WA RECREATION & PARK ASSOCIATION	129.00
WA STATE ASSOC OF PERMIT TECHNICIAN	35.00
WA STATE DEPARTMENT OF AGRICULTURE	33.00
WA STATE DEPT OF LABOR & INDUSTRIES	120.20
WA STATE DEPT OF RETIREMENT SYS	154.70
WA STATE DEPT OF TRANSPORTATION	5,772.57
WA STATE PARKS & RECREATION	2,700.00
WARDS NATURAL SCIENCE	1,237.95
WARNER, LOUIS	1.02
WASHINGTON CITY/COUNTY MGMT ASSOC	160.00
WASHINGTON ENERGY SERVICES	120.70
WASHINGTON MILITARY DEPARTMENT	5,009.34
WASHINGTON MUNICIPAL CLERKS ASSOC	75.00
WASHINGTON STATE DEPT OF INFO SERV	14,696.91
WASHINGTON STATE DEPT OF REVENUE	5,003.62
WASHINGTON STATE O.M.W.B.E.	200.00
WASHINGTON STATE OFFICE CASH MGMT	769.50
WASHINGTON TREE SERVICE INC	2,847.00
WEINSTEIN AU	22,005.11
WELLS FARGO BANK	2,483.66
WELLS FARGO FINANCIAL	5,312.50
WESTERN METAL ART & SIGN	244.74
WONDERLAND DEVELOPMENT	14,290.00
YAKIMA COUNTY DEPT. OF CORRECTIONS	59,400.05
YAMASATO, JON	1,750.00
YAZDIDOOST, KAMRAN	4,305.60
ZESBAUGH, INC.	423.77
ZONAR SYSTEMS	525.33
ZORNES, GARY	230.00
ZUMAR	494.77
	14,102,746.80

City of Kenmore
Voucher Certification and Approval

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein and that the following claims, paid by checks 25237-25271 which total \$132,226.24 are just, due, and unpaid obligations against the City of Kenmore/King County/Washington, and that I am authorized to authenticate and certify to said claims.


 City Manager Date 2/6/12


 Finance Director Date 1/27/12

Check #	Name	Description	Net Amount
25237	DEPT OF LABOR & INDUSTRIES	4th Qtr Difference for Volunteer Hrs	\$ 1.55
25238	JEFF DURRANT	Jan. Training Airfare/ Baggage	417.90
25239	NICHOLAS MINZGHOR	Jan. Training Airfare/ Baggage/ Car	892.22
25240	BANNER BANK	2012 Planner	20.75
25241	BRAVO ENVIRONMENTAL SERVICE	Storn Pipe Video 12/13/11	2,268.55
25242	CLYDE/WEST	Street Sweeper Parts	143.35
25243	EMERGENCY FEEDING PROGRAM	4th Qtr 2011	625.00
25244	GRAY & OSBORNE, INC	Svc 12/11/11-1/7/12 09-C776	7,757.23
25245	HOPELINK	Emerg. Feeding Svc. Qtr 4 2011	2,530.00
25246	INSLEE, BEST, DOEZIE & RYDER, P.S.	Legal svc through 12/31/11	40,525.14
25247	KING COUNTY FINANCE	Dec. 2011 Solid Waste Disposal	17,036.54
25248	SOUND PUBLISHING, INC.	Kenmore Reporter Dec. 2011 Ads	343.35
25249	KING COUNTY OFFICE PUBLIC DEFENSE	Dec. 2011 Public Defense Svcs.	852.60
25250	LIGHTHOUSE CONSULTING INC	Anti-Spam/ Virus Svc. Dec. 2011	1,893.80
25251	NAMI EASTSIDE	4th Qtr 2011	400.00
25252	NORTHSHORE SENIOR CENTER	4th Qtr 2011	6,000.00
25253	NORTHSHORE UTILITY DIST	Dec. 2011 Vehicle Maint./ Fuel	8,624.37
25254	PUGET SOUND ENERGY	Street Lighting 12/2-12/30/11	18,935.63
25255	WASHINGTON STATE OFFICE CASH MGMT	4th Qtr 2011 State Bldg Permit	166.50
25256	OAC SERVICES, INC	Professional Services Dec. 2011	253.75
25257	MOBILE ELECTRICAL DISTRIBUTORS INC	Light Bulbs	51.97
25258	HARRIS, LESLIE	Oct. - Dec. Expense Reimbursem	2,183.22
25259	BANNER BANK LD	Meal, Supplies, Certificate Frame	436.85
25260	BANNER BANK CS	Phone Charger, Supplies, Meals	136.41
25261	OUSLEY, NANCY	Dec. Expense Reimbursement	175.94
25262	QUALITY BUSINESS SYSTEMS	Dec. 2011 Copier	1,073.30
25263	BANNER BANK JGORDON	Supplies, Manuals	317.75
25264	UNIVERSAL FIELD SERVICES	Abagobez Prop. Aquisition	4,517.71
25265	TOWN & COUNTRY FENCE, INC	Fence Repair 73rd & 192nd	1,188.08
25266	KENMORE ELEMENTARY PTA	4th Qtr 2011	2,000.00
25267	ZUMAR	Sign - Log Boom Park	50.21
25268	HERO HOUSE	4th Qtr 2011	387.50
25269	TOWNE CENTRE HARDWARE	Dec. 2011 Light Bulbs	20.78
25270	PERTEET INC.	Prof. Svc. 10/31-11/27/11	5,998.29
25271	SCHLOTZHAUER FIRM PS	Final Billing for 2011 Services	4,000.00
			<u>\$ 132,226.24</u>

VB. Approval of Claim Nos. 25236 in the Amount of \$2,313.17; 25237-25271 in the Amount of \$132,226.24 for the Period Ending on January 20, 2012 and Claim Nos. 25272-25361 in the Amount

PRIOR VENDOR ACTIVITY**Previous YTD**

3CMA	\$	375.00
A+ CONFERENCING		267.95
AA PARTY RENTALS		3,445.41
ABBOTT, CARRIE		250.00
ACTION ENTERTAINMENT		1,090.00
ACTIVE SHOOTER TRAINING LLC		815.90
ADT SECURITY SERVICES		1,373.26
ADVANCE TESTING & SERVICE INC		459.00
AFLAC		11,088.34
ALCALDE & FAY		75,594.62
ALLIANCE OF PEOPLE W/ DISABILITIES		3,386.25
ALLIED WASTE SERVICES #172		10,731.37
ALPHA COURIER SERVICES		33.60
ALTA MAXINE MELVIN		85,200.00
AM TEST, INC		1,620.00
AMERICAN ASSOC OF CODE ENFORCEMENT		75.00
AMERICAN GENERAL		5,630.29
AMERICAN PLANNING ASSOCIATION		1,501.00
AMERICAN PUBLIC WORKS ASSOCIATION		1,035.42
AMERICAN REPROGRAPHICS COMPANY		127.43
AMERICAN SOCIETY OF COMPOSERS		305.00
AMES2BFIT		100.00
ANDERSON, LAURI		193.19
ANDONIADIS INC		1,742.90
APPLIED PROFESSIONAL SERVICES INC		1,536.93
ARGENS		15.88
ARTS OF KENMORE		500.00
ASP, ANGELA		210.00
ASSOCIATION OF WA CITIES		13,970.00
AT WORK		2,480.25
AURORA RENTS		2,518.04
AWC EMPLOYEE BENEFITS		436,951.11
BABB, MICHELLE		186.92
BADGLEY'S LANDSCAPE LLC		2,190.00
BAKER, DAVID		3,128.45
BANK OF AMERICA 941		328,299.46
BANNER BANK		2,019.39
BANNER BANK BH		931.61
BANNER BANK CS		7,749.45
BANNER BANK DB		2,296.84
BANNER BANK JG		8,219.69
BANNER BANK JGORDON		14,927.64
BANNER BANK KENMORE		34,204.70
BANNER BANK LB		2,120.28
BANNER BANK LD		7,827.58
BANNER BANK NO		6,832.96
BARCLAY DEAN ARCHITECTUAL PRODUCTS		711.75
BASTYR UNIVERSITY		220,783.70
BAUER, ANDREW		884.68
BAYLES, GREGORY		50.00
BEEGEE TOLPA		700.00
BEKINS NORTHWEST		303.45

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BENNETT, STUART	29.36
BERKEY SUPPLY INC	18.52
BIG BUBBA DOG LLC	1,500.00
BIS	4,685.00
BLACKBAUD	4,956.23
BLUE WAVE CONSTRUCTION, INC	24,671.83
BODINE CONSTUCTION SERVICES, INC	383.25
BOTHELL SKI & BIKE	120.44
BOWHEAD ENVIRONMENTAL & SAFETY	414.59
BRABEC, MARY	3,500.00
BRADY, DAVID	84.00
BRAVO ENVIRONMENTAL SERVICE	153,410.05
BROADCAST MUSIC, INC.	309.00
BUILDERS EXCHANGE OF WASHINGTON INC	97.75
BULGER SAFE & LOCK, INC.	98.55
C. ANDERSON & CO.	1,209.98
CALIBRE HOMES, INC	7,500.00
CALPORTLAND COMPANY	4,932.85
CANOPIES BY FRED	647.15
CARLSON, THOMAS G.	1,412.77
CASCADE PEST CONTROL	2,096.96
CATHOLIC COMMUNITY SERVICES	7,512.75
CEMEX	7,676.66
CENTER FOR HUMAN SERVICES	39,840.00
CHAMPION COURIER	91.96
CHILDERS, MARK	1,069.96
CITY OF BELLEVUE	549,821.29
CITY OF CLYDE HILL	583.00
CITY OF KENMORE FS	5,026.75
CITY OF LAKE FOREST PARK	784,440.23
CITY OF RENTON	980.00
CITY OF SHORELINE	1,676.97
CLARITY SIGNS	2,788.43
CLUB NORTHWEST	30.00
CLYDE/WEST	1,275.80
COASTAL WEAR PRODUCTS INC	3,940.02
COASTWIDE LABORATORIES	6,328.93
CODE 4 PUBLIC SAFETY EDUCATION	198.00
CODE PUBLISHING COMPANY	547.50
COFFMAN, JON	183.00
COLUMBIA BANK	11,099.56
COLUMBIA FORD	26,352.28
COLUMBIA RIDGE LANDFILL	25,903.62
COMCAST	1,538.60
COMMERCIAL SOUND, INC.	18,241.93
COMPASS POINTE CONDOMINIUM HOA	750.00
CONSEJO COUNSELING & REF	4,750.00
CONSOLIDATED PRESS	5,043.08
CONTECH STORMWATER SOLUTIONS, INC	15,444.98
CORCORAN, JOHN	1.55
CORNERSTONE ROOFING	98.50
COSTCO RETAIL SERVICES	27.62
COX PRINTING & SIGNS	533.82
CPSWQ	100.00

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CROWN PRODUCTS	2,042.85
CSAT, LLC	1,600.00
CURRY, ROSS	183.00
CUSTER SPORTSMEN'S CLUB, INC	150.00
DAILY JOURNAL OF COMMERCE	1,772.20
DANSOUND INC	7,144.89
DAS MANUFACTURING, INC.	10,413.75
DBM CONTRACTORS, INC	215,717.62
DELL MARKETING L.P.	4,275.06
DEPARTMENT OF ECOLOGY	10,373.34
DEPARTMENT OF LABOR AND INDUSTRIES	38,169.11
DEPARTMENT OF LICENSING	10.00
DEPARTMENT OF RETIREMENT SYSTEMS	231,758.57
DEVRIES, DENIS	253.20
DIAMOND TRAFFIC PRODUCTS	190.36
DIGITAL REPROGRAPHICS SERVICES INC.	2,157.79
DISSTON, GALEN	1,500.00
DOWL HKM	12,595.00
DRS 457	45,152.16
DUNN LUMBER COMPANY	1,759.14
DURRANT, JEFF	1,201.25
EARTHCORPS	15,204.18
EAST JORDAN IRON WORKS	1,152.48
EDGE CONCRETE CONSTRUCTION, LLC	1,250.00
EFFICIENCY INC	949.37
EMERGENCY FEEDING PROGRAM	3,750.00
EMERGENCY SERVICE COORDINATING AGCY	56,137.00
EMPLOYMENT SECURITY DEPT	5,357.02
ENTERTAINMENT FIREWORKS INC	12,025.00
ENVIRONMENTAL SYSTEMS RESEARCH INST	2,554.01
ESA ADOLFSON	12,559.89
ESPRESSO WORKS	225.00
EVANS, C. WILLIAM	5,247.00
EVERETT STEEL	191.98
EVERGREEN PRINT SOLUTIONS	1,130.13
EVERGREEN SAFETY COUNCIL	175.00
EVER-MARK, LLC	2,121.98
EXTREME PROMOTIONS	860.00
FAZZARI MARKETING	1,689.29
FEARON, CLINTON	2,000.00
FEASEL, ROBERT	665.00
FEDEX OFFICE	26.61
FERGUSON ENTERPRISES INC	19,637.23
FIRE PROTECTION, INC	3,506.16
FIRST AMERICAN TITLE	1,171.12
FPOD LLC	7,500.00
FRONTIER	63,291.73
FRUHLING SAND & TOPSOIL	2,795.37
FULL MAINTENANCE GARDENING	4,927.70
GATES, JANICE	71.96
GEOENGINEERS INC	41,913.30
GIBBONS & RIELY, PLLC	750.00
GORDON DERR	11,454.89
GORDON THOMAS HONEYWELL	43,122.38

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GORDON, JENNIFER	33.86
GOVERNMENT FINANCE OFFICERS ASSOC	190.00
GRAHAM CONTRACTING LTD.	443,599.44
GRAINGER	6,995.27
GRAY & OSBORNE, INC	29,877.38
GREGORY, JOANNE	1,151.60
GREYSTONE COMMERCIAL SERVICE LP	174.79
GRIESEL, LEONARD	5,849.50
H.W. LOCHNER, INC.	275,120.74
HAMMOND COLLIER WADE LIVINGSTONE	1,770.00
HANSON CONSULTING SERVICES	1,269.00
HARRIS COMPUTER SYSTEMS	6,317.06
HARRIS, LESLIE	864.67
HDR	200,626.61
HEARTLAND	22,920.97
HEATERMEALS	1,193.21
HEISSLER, ANDREW	1,800.00
HERO HOUSE	1,548.75
HICKS, KATHLEEN	97.64
HOME DEPOT CREDIT SERVICES	1,434.37
HONEY BUCKET	1,020.40
HOPELINK	63,835.25
HOPKINS, CRAIG	557.31
HORIZON DISTRIBUTORS INC	680.48
HULQUIST HOMES	7,500.00
ICMA RETIREMENT TRUST 457 - 304745	62,688.17
iCOMPASS TECHNOLOGIES, INC.	16,600.00
INDEPENDENT STATIONERS	6,162.74
INFRASOURCE CONTRACTING LLC	29.36
INGLEWOOD GOLF COURSE	2,475.00
INSLEE, BEST, DOEZIE & RYDER, P.S.	277,552.16
INSTITUTE FOR FAMILY DEVELOPMENT	15,938.00
INSTRUMENTATION NORTHWEST INC.	1,560.58
INTEGRA TELECOM	10,420.22
INTERNATIONAL CITY/CNTY MGMT ASSOC	2,154.43
INTERNATIONAL INST OF MUNI CLERKS	560.00
IRIS WINDOW COVERINGS NW, INC.	1,382.81
iWORQ SYSTEMS	8,600.00
J&K ASSOCIATES	10,789.04
J. MURPHEY CONSTRUCTION	42.67
JACOBSON, BETTS & COMPANY	6,533.12
JBS INSTRUMENTS	3,360.75
JET CITY PRINTING	4,439.65
JOHN E. REID & ASSOCIATES	580.00
JONES & STOKES	129.31
JORVE CORPORTATION	46,509.16
JRW ENTERPRISES	413.36
JURASSIC PARLIAMENT	3,306.07
KCDA PURCHASING COOP	9,328.55
KEEP POSTED INC	173.00
KELLY PRINTING & GRAPHICS	6,908.93
KELLY THOMAS, INC.	11,587.29
KENMORE AIR	275.00
KENMORE ELEMENTARY PTA	5,666.67

VB. Approval of Claim Nos. 25236 in the Amount of \$2,313.17; 25237-25271 in the Amount of \$132,226.24 for the Period Ending on January 20, 2012 and Claim Nos. 25272-25361 in the Amount

KENMORE HERITAGE SOCIETY	25.00
KENYON DISEND, PLLC	14,104.37
KEY EQUIPMENT FINANCE	2,697.00
KING COUNTY	1,672.65
KING COUNTY W.L.R.D.	352,832.05
KING COUNTY ANIMAL SVCS	6,080.00
KING COUNTY ARCHIVES	82.90
KING COUNTY DEPT OF CONST PROP SVCS	1,503.57
KING COUNTY DISTRICT COURT	35,497.00
KING COUNTY FINANCE	1,344,146.11
KING COUNTY FIRE DISTRICT	850.00
KING COUNTY FLEET ADMIN	441.31
KING COUNTY LIBRARY SYS	33,440.00
KING COUNTY OFFICE PUBLIC DEFENSE	10,898.30
KING COUNTY PARKS	5,339.21
KING COUNTY RADIO COMM SERVICES	9,704.05
KING COUNTY RECORDER'S OFFICE	819.00
KING COUNTY SHERIFF	3,214,742.58
KING COUNTY TREASURY	38,810.75
KOMPAN, INC	345.64
KONICA MINOLTA BUSINESS SOLUTIONS	10,062.16
KUKER-RANKEN INC	536.98
KUSTOM SIGNALS, INC.	500.33
LACHAPELLE, NATALIE	300.00
LEE, MYUNG	2,252.00
LIGHTHOUSE CONSULTING INC	35,172.82
LOEWEN, RON	76.00
LONGFELLOW, JONATHAN	420.00
LORBIECKI, GLENN	50.00
LYONS, KEN	6,687.40
MAACO	368.96
MAAS, NORMAN	2,520.00
MAGEE, STEVEN	9,192.00
MAIL FINANCE	3,523.18
MATRIX CONSULTING GROUP	40,000.00
McKEE & SCHALKA	5,500.00
MCNAMARA SIGNS	191.63
MICHAEL TERRY'S TRAPPING	960.00
MIDMOUNTAIN CONTRACTORS, INC	827,157.45
MILNE ELECTRIC, INC	24,991.83
MINZGHOR, NICHOLAS	1,817.68
MOBILE ELECTRICAL DISTRIBUTORS INC	35.30
MR. T'S TROPHIES	1,550.33
NAMI EASTSIDE	400.00
NATIONAL ALLIANCE ON MENTAL ILLNESS	1,481.50
NATIONAL ASSOC OF PARLIAMENTARIANS	85.00
NATIONAL BARRICADE CO	2,943.91
NATIONAL LEAGUE OF CITIES	5,439.00
NATIONAL LIFE OF VERMONT	4,818.81
NATIONWIDE FINANCIAL 401a	271,366.36
NATIONWIDE RETIREMENT SOLUTIONS 457	36,780.00
NEBC	195.00
NetVersant	9,959.70
NEXTEL COMMUNICATIONS	11,631.44

VB. Approval of Claim Nos. 25236 in the Amount of \$2,313.17; 25237-25271 in the Amount of \$132,226.24 for the Period Ending on January 20, 2012 and Claim Nos. 25272-25361 in the Amount

NEXXPOST	287.31
NORTH COAST ELECTRIC	2,497.13
NORTH CREST DEVELOPMENT CORP.	1,794.00
NORTHSHORE FIRE DEPT	8,622.60
NORTHSHORE PAVING INC	537.90
NORTHSHORE SCHOOL DISTRICT	1,364.45
NORTHSHORE SENIOR CENTER	23,750.00
NORTHSHORE UTILITY DIST	113,532.77
NORTHSHORE YMCA	7,096.00
NORTHSHORE YOUTH & FAMILY SERVICES	40,000.00
OAC SERVICES, INC	46,354.71
OAKSTONE WELLNESS	128.07
OFFICE CLEANING CREW	7,862.85
OFFICE DEPOT	917.01
OFFICE MAX	1,351.19
OFFICE TEAM	14,383.73
OLYMPIC ENVIRONMENTAL RESOURCES	46,276.89
OM WORKSPACE	5,418.58
ORB ARCHITECTS	8,725.97
OSTROM DRUGS	557.40
OTAK	190,307.30
OUSLEY, NANCY	1,240.36
PACE ENGINEERS, INC.	3,057.50
PACIFIC NW TITLE CO OF WA, INC	1,171.00
PACIFIC TOPSOILS	15,285.45
PASSPORT TRAVEL AND TOURS	7,257.90
PAWS	10,505.00
PENDLETON CONSULTING LLC	10,044.47
PEOPLES STORAGE	2,422.00
PERKINS COIE	10,805.59
PETTY CASH CUSTODIAN	1,985.56
PHOTOTAINMENT	876.00
PHSI PURE WATER FINANCE	1,509.45
PLATT	506.41
PRIME PACIFIC BANK	60.00
PROTHMAN COMPANY	9,053.25
PRO-VAC	15,817.98
PRSA	554.00
PRUDENTIAL	1,492.52
PSR MECHANICAL	735.84
PUGET SOUND BUSINESS JOURNAL	94.00
PUGET SOUND CLEAN AIR AGENCY	10,989.00
PUGET SOUND ENERGY	722,072.45
PUGET SOUND FINANCE OFFICERS ASSOC	125.00
PUGET SOUND REFRIGERATION	2,207.52
PUGET SOUND REGIONAL COUNCIL	7,390.00
PURDY, MICHAEL E.	150.00
PURE WATER TECH OF PUGET SOUND	136.88
QUALITY BUSINESS SYSTEMS	17,947.47
RANDALL, BRIAN	296.37
RCS VALUATION CORP	2,000.00
RICHARD & SHARON ARKLEY LIVING TRUS	2,300.00
RODGERS, MICHAEL	184.00
ROGERS, GLENN	2,512.74

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RON KASPRISIN AIA	902.29
RONGERUDE, JOHN	150.00
ROUNDY, CASSANDRA	50.00
RUEB, DAVID	1,440.61
S & S UPHOLSTERY	2,135.25
SAFRIN, PATTY	979.57
SARAH ROBERTS	120,000.00
SCHINDLER ELEVATOR CORPORATION	2,106.01
SCHLOTZHAUER FIRM PS	13,080.00
SEATTLE TIMES	8,100.44
SEATTLE VISITING NURSE ASSOCIATION	112.00
SECRETARY OF STATE	55.00
SEES TREES AND EXCAVATION INC	4,479.84
SEMIAMMOO RESORT	1,041.12
SERVICE ELECTRIC	869.08
SESAC	296.00
SHARAM FAMILY	19,444.40
SHATTUCK, NANCY	8,800.00
SHORELINE PUBLIC SCHOOLS	450.00
SHRED-IT	693.00
SIMPSON, ARTHUR	969.00
SKYLINE WINDOWS, INC.	134.69
SMITH, JARRETT	50.35
SNOHOMISH COUNTY	78,742.06
SNOHOMISH COUNTY SHERIFF'S OFFICE	117,776.13
SOUND LAW CENTER	16,747.50
SOUND PUBLISHING, INC.	6,207.30
SPECIAL ASPHALT PRODUCTS	5,996.09
SPERRY, LAURIE	250.00
ST EDWARD STATE PARK	9,465.22
STAPLES ADVANTAGE	7,470.29
STAR NORTHWEST, INC	56,941.47
STARLIGHT CHILDRENS FOUNDATION	190.00
STATE AUDITOR'S OFFICE	20,279.22
STATE OF FLORIDA DISBURSEMENT UNIT	3,025.00
STEPHENS, MARY	12,500.00
STEWART BEALL MACNICHOLS	47,300.00
STOUDER, FRED	1,359.01
STRIPE RITE, INC.	2,200.95
SUBURBAN CITIES ASSOC	11,919.87
SUNBELT	4,927.56
SUSKIN, LYNN	990.21
SUSSMAN/PREJZA & CO, INC	52,154.84
TACOMA SCREW PRODUCTS, INC.	159.70
TAYLOR, GARY	2,800.00
TELESYSTEMS WEST	2,271.31
THE KIPLINGER TAX LETTER	89.00
THE PIN CENTER	920.00
THE WILDERS	2,000.00
TIGER CONSTRUCTION & EXCAVATION	5,950.00
TIMEMARK INCORPORATED	106.76
TITAN OUTDOOR, LLC	862.00
TOTAL LANDSCAPE CORP	94,082.74
TOWN & COUNTRY FENCE, INC	427.05

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TOWNE CENTRE HARDWARE	1,090.57
TRAFFIC COUNT CONSULTANTS, INC	5,250.00
TRAN, SHAUN & DINH LIEU	415.80
TRANE U.S. INC.	10,471.69
T-TRAN LANDSCAPING & CONCRETE	8,760.00
ULI/SEATTLE DISTRICT CNCL	45.00
UNITED STATES POSTMASTER	1,798.44
UNITED WAY OF KING COUNTY	1,495.00
UNIVERSAL FIELD SERVICES	22,757.54
UNIVERSITY OF WASHINGTON	1,210.00
UNIVERSITY OF WASHINGTON, BOTHELL	5,000.00
URBAN LAND INSTITUTE	225.00
US POSTAL SERVICE (HASLER)	8,228.32
VAN NESS, ALLAN	3,372.36
VAUGHAN, KENT	76.00
W.S.S.R.O.A.	450.00
WA ASSOC FOR FLOODPLAIN MANAGEMENT	100.00
WA ASSOC OF CODE ENFORCEMENT	40.00
WA CITIES INSURANCE AUTHORITY	124,502.00
WA FINANCE OFFICERS ASSOCIATION	450.00
WA GUARANTEED EDUCATION TUITION	5,602.50
WA RECREATION & PARK ASSOCIATION	129.00
WA STATE ASSOC OF PERMIT TECHNICIAN	35.00
WA STATE DEPARTMENT OF AGRICULTURE	33.00
WA STATE DEPT OF LABOR & INDUSTRIES	120.20
WA STATE DEPT OF RETIREMENT SYS	154.70
WA STATE DEPT OF TRANSPORTATION	5,892.96
WA STATE PARKS & RECREATION	2,700.00
WARDS NATURAL SCIENCE	1,237.95
WARNER, LOUIS	1.02
WASHINGTON CITY/COUNTY MGMT ASSOC	160.00
WASHINGTON ENERGY SERVICES	120.70
WASHINGTON MILITARY DEPARTMENT	5,009.34
WASHINGTON MUNICIPAL CLERKS ASSOC	75.00
WASHINGTON STATE DEPT OF INFO SERV	14,906.91
WASHINGTON STATE DEPT OF REVENUE	5,003.62
WASHINGTON STATE O.M.W.B.E.	200.00
WASHINGTON STATE OFFICE CASH MGMT	769.50
WASHINGTON TREE SERVICE INC	2,847.00
WEINSTEIN AU	22,005.11
WELLS FARGO BANK	2,483.66
WELLS FARGO FINANCIAL	5,312.50
WESTERN METAL ART & SIGN	244.74
WONDERLAND DEVELOPMENT	17,165.00
YAKIMA COUNTY DEPT. OF CORRECTIONS	59,400.05
YAMASATO, JON	1,750.00
YAZDIDOOST, KAMRAN	4,305.60
ZESBAUGH, INC.	423.77
ZONAR SYSTEMS	525.33
ZORNES, GARY	230.00
ZUMAR	494.77

14,436,469.58

VB. Approval of Claim Nos. 25236 in the Amount of \$2,313.17; 25237-25271 in the Amount of \$132,226.24 for the Period Ending on January 20, 2012 and Claim Nos. 25272-25361 in the Amount

City of Kenmore **Voucher Certification and Approval**

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein and that the following claims, paid by checks 25272-25361 which total \$588,832.55 are just, due, and unpaid obligations against the City of Kenmore/King County/Washington, and that I am authorized to authenticate and certify to said claims.


2/2/12

 City Manager Date



 Finance Director Date

Check #	Name	Description	Net Amount
25272	NATIONWIDE FINANCIAL 401a	Payroll Entry	\$ 10,766.83
25273	NATIONWIDE RETIREMENT SOLUTIONS 457	Payroll Entry	1,570.00
25274	ICMA RETIREMENT TRUST 457 - 304745	Payroll Entry	2,003.84
25275	DRS 457	Payroll Entry	1,737.50
25276	AFLAC	Payroll Entry	487.65
25277	CITY OF KENMORE FS	Payroll Entry	179.56
25278	BANK OF AMERICA 941	Payroll Entry	10,815.15
25279	AWC EMPLOYEE BENEFITS	Payroll Entry	631.53
25280	WA GUARANTEED EDUCATION TUITION	Payroll Entry	415.00
25281	DEPARTMENT OF RETIREMENT SYSTEMS	Payroll Entry	9,096.46
25282	DEPARTMENT OF LABOR AND INDUSTRIES	Payroll Entry	2,525.22
25283	UNITED WAY OF KING COUNTY	Payroll Entry	192.00
25284	NATIONAL LIFE OF VERMONT	Payroll Entry	328.34
25285	AMERICAN GENERAL	Payroll Entry	491.18
25286	STATE OF FLORIDA DISBURSEMENT UNIT	Payroll Entry	275.00
25287	ACTION ENTERTAINMENT	Kenmore Jr. High Dance - 2/10/12	350.00
25288	PEOPLES STORAGE	Rent 2/1-2/29/12 C304	177.00
25289	VAN NESS, ALLAN	Airfaire Reimbursement - WA D.C.	509.60
25290	WA RECREATION & PARK ASSOCIATION	2012 Professional Membership	104.00
25291	KELLY PRINTING & GRAPHICS	Business Cards	62.42
25292	BANNER BANK NO	Subscription, Registration, Postage	444.26
25293	BANNER BANK KENMORE	Conference Registration, Meals	1,631.25
25294	A+ CONFERENCING	Jan. 3, 2012 Conference Call	12.45
25295	FRONTIER	Jan. 6700 Bld. Alarm Panel	111.15
25296	BANNER BANK BH	Off. Supplies, Membership Renewal	386.68
25297	AWC EMPLOYEE BENEFITS	Payroll Entry	35,636.19
25298	WA CITIES INSURANCE AUTHORITY	2012 Insurance Assessment	148,614.00
25299	ASSOCIATION OF WA CITIES	2012 Membership Dues	14,058.00

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25300	BAKER, DAVID	January Expense Reimbursement	451.49
25301	BASTYR UNIVERSITY	Ballfield Rental - 2012	50,000.00
25302	BENT, DEBORAH A	Reimburse APA/AICP Membership	576.00
25303	BULGER SAFE & LOCK, INC.	Padlocks	108.36
25304	CASCADE PEST CONTROL	Rhododendron Pk Rodent Control	142.35
25305	CITY OF SHORELINE	2011 Police Facility Rental	914.77
25306	COASTWIDE LABORATORIES	Facility Maintenance Supplies	392.34
25307	CODE PUBLISHING COMPANY	Kenmore Municipal Code	10,932.92
25308	DAILY JOURNAL OF COMMERCE	Advertising - Banner Installation	125.80
25309	EMPLOYMENT SECURITY DEPT	4th Qtr Unemployment Benefits	1,972.46
25310	FRUHLING SAND & TOPSOIL	Tree Clean Up/ Disposal	83.00
25311	FULL MAINTENANCE GARDENING	City Hall Landscape Maintenance	373.40
25312	GREENWOOD HEATING & AC	Refund Cancelled Permit Fee	39.45
25313	H.W. LOCHNER, INC.	11/12-12/9/11 09-C788 SR 522	25,972.71
25314	JET CITY PRINTING	Printing/ Supplies	359.16
25315	KING COUNTY LIBRARY SYS	Kenmore Library ROW Work	169,633.00
25316	NORTHSHORE UTILITY DIST	11/15-1/15 Utility Bills	1,092.68
25317	OFFICE MAX	Printer Toner	177.49
25318	PUGET SOUND CLEAN AIR AGENCY	2012 Annual Dues	11,308.00
25319	PUGET SOUND ENERGY	12/15/11-1/13/12 Utilites	2,698.09
25320	PUGET SOUND FINANCE OFFICERS ASSOC	2012 Membership Dues	50.00
25321	CEMEX	Asphalt Materials	189.15
25322	SUBURBAN CITIES ASSOC	2012 Membership Dues	11,632.64
25323	TOTAL LANDSCAPE CORP	Landscaping Parks, City Hall, ROW	6,404.21
25324	WA ASSOC OF CODE ENFORCEMENT	Spring Conference Registration	25.00
25325	COLUMBIA RIDGE LANDFILL	Street Sweeper Disposal 1/1-1/14	2,355.27
25326	AFLAC	Service Charge for Dec. 2011	50.00
25327	SEES TREES AND EXCAVATION INC	Tree Clean Up/ Removal	5,568.09
25328	NATIONAL LEAGUE OF CITIES	Renewal Dues	1,489.00
25329	VAN NESS, ALLAN	Jan. Expense Reimbursement	302.49
25330	THE KIPLINGER TAX LETTER	Subscription Renew Feb '12-Feb. '13	99.00
25331	PROTHMAN COMPANY	City Manager Recruitment	6,166.67
25332	MAIL FINANCE	Lease Payment - 2/14-3/13/12	250.76
25333	McKEE & SCHALKA	Grocery Outlet Appraisal	4,000.00
25334	KELLY PRINTING & GRAPHICS	Business Cards	394.20
25335	HDR	9/25-12/31/11 Const. Mgmt. Svc	2,293.31
25336	CODE 4 PUBLIC SAFETY EDUCATION	Training 1/23/12	99.00
25337	STRIPE RITE, INC.	Asphalt Work SR522 Ph 1 Stg 1	3,969.38
25338	FINANCIAL CONSULTANTS INT'L INC	Gun Rack Installation	76.02
25339	PRIME PACIFIC BANK	Safety Deposit Box 1/31/12-1/31/13	60.00
25340	BIS	City Website Hosting Svc - Jan.	175.00
25341	STOUDER, FRED	Jan 4-5 Expense Reimbursement	154.00
25342	ALCALDE & FAY	Govt. Affairs Consulting 1/15-2/15	5,013.95
25343	COMCAST	Internet 1/14-2/13/12	116.90
25344	GORDON DERR	Legal Svc. - Dec. 2011	2,013.00
25345	CSAT, LLC	Training 1/9-1/13/12 - Durrant	800.00
25346	iWORQ SYSTEMS	2012 Utility ROW Permit Tracking	1,000.00

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25347	DAY & NITE PLUMBING & HEATING	Emergency Water Repairs	2,955.41
25348	INTEGRA TELECOM	City Hall Phone Service	727.51
25349	COX PRINTING & SIGNS	4' x 4' Construction Notice Sign	235.43
25350	AM TEST, INC	Water Sampling - Swamp Creek	125.00
25351	PHOTOTAINMENT	2 Hr. Photobooth Rental	963.60
25352	WELLS FARGO FINANCIAL	1/10-2/10/12 Xerox Copier Lease	803.43
25353	STEPHENS, MARY	Public Defense Svc. Dec. 2011	1,250.00
25354	JURASSIC PARLIAMENT	12/3/11 Council Mtg.	235.34
25355	CB RICHARD ELLIS, INC	Grocery Outlet Parcel Appraisal	3,500.00
25356	JACOBSON, BETTS & COMPANY	12/4-12/31/11 Consulting Svc.	1,804.80
25357	NORTH COAST ELECTRIC	Maintenance Supplies	13.83
25358	JAU JOU, STANLEY	Utility Easement Compensation	222.80
25359	ROLLABELS	End Labels for Rolled Plans	37.15
25360	GALLS, LLC	Gear Bag	26.25
25361	SMITH, BRENT	Jan. Expense Reimbursement	219.23

\$	588,832.55
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PRIOR VENDOR ACTIVITY

	<u>Previous YTD</u> <u>Year End 2011</u>
3CMA	\$ 375.00
A+ CONFERENCING	267.95
AA PARTY RENTALS	3,445.41
ABBOTT, CARRIE	250.00
ACTION ENTERTAINMENT	1,090.00
ACTIVE SHOOTER TRAINING LLC	815.90
ADT SECURITY SERVICES	1,373.26
ADVANCE TESTING & SERVICE INC	459.00
AFLAC	11,088.34
ALCALDE & FAY	75,594.62
ALLIANCE OF PEOPLE W/ DISABILITIES	3,386.25
ALLIED WASTE SERVICES #172	10,731.37
ALPHA COURIER SERVICES	33.60
ALTA MAXINE MELVIN	85,200.00
AM TEST, INC	1,620.00
AMERICAN ASSOC OF CODE ENFORCEMENT	75.00
AMERICAN GENERAL	5,630.29
AMERICAN PLANNING ASSOCIATION	1,501.00
AMERICAN PUBLIC WORKS ASSOCIATION	1,035.42
AMERICAN REPROGRAPHICS COMPANY	127.43
AMERICAN SOCIETY OF COMPOSERS	305.00
AMES2BFIT	100.00
ANDERSON, LAURI	193.19
ANDONIADIS INC	1,742.90
APPLIED PROFESSIONAL SERVICES INC	1,536.93
ARGENS	15.88
ARTS OF KENMORE	500.00
ASP, ANGELA	210.00
ASSOCIATION OF WA CITIES	13,970.00
AT WORK	2,480.25
AURORA RENTS	2,518.04
AWC EMPLOYEE BENEFITS	436,951.11
BABB, MICHELLE	186.92
BADGLEY'S LANDSCAPE LLC	2,190.00
BAKER, DAVID	3,128.45
BANK OF AMERICA 941	328,299.46
BANNER BANK	2,040.14
BANNER BANK BH	931.61
BANNER BANK CS	7,885.86
BANNER BANK DB	2,296.84
BANNER BANK JG	8,219.69
BANNER BANK JGORDON	15,245.39
BANNER BANK KENMORE	34,204.70
BANNER BANK LB	2,120.28
BANNER BANK LD	8,264.43
BANNER BANK NO	6,832.96
BARCLAY DEAN ARCHITECTUAL PRODUCTS	711.75
BASTYR UNIVERSITY	220,783.70
BAUER, ANDREW	884.68
BAYLES, GREGORY	50.00
BEEGEE TOLPA	700.00
BEKINS NORTHWEST	303.45

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BENNETT, STUART	29.36
BERKEY SUPPLY INC	18.52
BIG BUBBA DOG LLC	1,500.00
BIS	4,685.00
BLACKBAUD	4,956.23
BLUE WAVE CONSTRUCTION, INC	24,671.83
BODINE CONSTRUCTION SERVICES, INC	383.25
BOTHELL SKI & BIKE	120.44
BOWHEAD ENVIRONMENTAL & SAFETY	414.59
BRABEC, MARY	3,500.00
BRADY, DAVID	84.00
BRAVO ENVIRONMENTAL SERVICE	155,678.60
BROADCAST MUSIC, INC.	309.00
BUILDERS EXCHANGE OF WASHINGTON INC	97.75
BULGER SAFE & LOCK, INC.	98.55
C. ANDERSON & CO.	1,209.98
CALIBRE HOMES, INC	7,500.00
CALPORTLAND COMPANY	4,932.85
CANOPIES BY FRED	647.15
CARLSON, THOMAS G.	1,412.77
CASCADE PEST CONTROL	2,096.96
CATHOLIC COMMUNITY SERVICES	7,512.75
CEMEX	7,676.66
CENTER FOR HUMAN SERVICES	39,840.00
CHAMPION COURIER	91.96
CHILDERS, MARK	1,069.96
CITY OF BELLEVUE	549,821.29
CITY OF CLYDE HILL	583.00
CITY OF KENMORE FS	5,026.75
CITY OF LAKE FOREST PARK	784,440.23
CITY OF RENTON	980.00
CITY OF SHORELINE	1,676.97
CLARITY SIGNS	2,788.43
CLUB NORTHWEST	30.00
CLYDE/WEST	1,419.15
COASTAL WEAR PRODUCTS INC	3,940.02
COASTWIDE LABORATORIES	6,328.93
CODE 4 PUBLIC SAFETY EDUCATION	198.00
CODE PUBLISHING COMPANY	547.50
COFFMAN, JON	183.00
COLUMBIA BANK	11,099.56
COLUMBIA FORD	26,352.28
COLUMBIA RIDGE LANDFILL	25,903.62
COMCAST	1,538.60
COMMERCIAL SOUND, INC.	18,241.93
COMPASS POINTE CONDOMINIUM HOA	750.00
CONSEJO COUNSELING & REF	4,750.00
CONSOLIDATED PRESS	5,043.08
CONTECH STORMWATER SOLUTIONS, INC	15,444.98
CORCORAN, JOHN	1.55
CORNERSTONE ROOFING	98.50
COSTCO RETAIL SERVICES	27.62
COX PRINTING & SIGNS	533.82
CPSWQ	100.00

VB. Approval of Claim Nos. 25236 in the Amount of \$2,313.17; 25237-25271 in the Amount of \$132,226.24 for the Period Ending on January 20, 2012 and Claim Nos. 25272-25361 in the Amount

CROWN PRODUCTS	2,042.85
CSAT, LLC	1,600.00
CURRY, ROSS	183.00
CUSTER SPORTSMEN'S CLUB, INC	150.00
DAILY JOURNAL OF COMMERCE	1,772.20
DANSOUND INC	7,144.89
DAS MANUFACTURING, INC.	10,413.75
DBM CONTRACTORS, INC	215,717.62
DELL MARKETING L.P.	4,275.06
DEPARTMENT OF ECOLOGY	10,373.34
DEPARTMENT OF LABOR AND INDUSTRIES	38,170.66
DEPARTMENT OF LICENSING	10.00
DEPARTMENT OF RETIREMENT SYSTEMS	231,758.57
DEVRIES, DENIS	253.20
DIAMOND TRAFFIC PRODUCTS	190.36
DIGITAL REPROGRAPHICS SERVICES INC.	2,157.79
DISSTON, GALEN	1,500.00
DOWL HKM	12,595.00
DRS 457	45,152.16
DUNN LUMBER COMPANY	1,759.14
DURRANT, JEFF	879.25
EARTHCORPS	15,204.18
EAST JORDAN IRON WORKS	1,152.48
EDGE CONCRETE CONSTRUCTION, LLC	1,250.00
EFFICIENCY INC	949.37
EMERGENCY FEEDING PROGRAM	4,375.00
EMERGENCY SERVICE COORDINATING AGCY	56,137.00
EMPLOYMENT SECURITY DEPT	5,357.02
ENTERTAINMENT FIREWORKS INC	12,025.00
ENVIRONMENTAL SYSTEMS RESEARCH INST	2,554.01
ESA ADOLFSON	12,559.89
ESPRESSO WORKS	225.00
EVANS, C. WILLIAM	5,247.00
EVERETT STEEL	191.98
EVERGREEN PRINT SOLUTIONS	1,130.13
EVERGREEN SAFETY COUNCIL	175.00
EVER-MARK, LLC	2,121.98
EXTREME PROMOTIONS	860.00
FAZZARI MARKETING	1,689.29
FEARON, CLINTON	2,000.00
FEASEL, ROBERT	665.00
FEDEX OFFICE	26.61
FERGUSON ENTERPRISES INC	19,637.23
FIRE PROTECTION, INC	3,506.16
FIRST AMERICAN TITLE	1,171.12
FPOD LLC	7,500.00
FRONTIER	63,291.73
FRUHLING SAND & TOPSOIL	2,795.37
FULL MAINTENANCE GARDENING	4,927.70
GATES, JANICE	71.96
GEOENGINEERS INC	41,913.30
GIBBONS & RIELY, PLLC	750.00
GORDON DERR	11,454.89
GORDON THOMAS HONEYWELL	43,122.38

VB. Approval of Claim Nos. 25236 in the Amount of \$2,313.17; 25237-25271 in the Amount of \$132,226.24 for the Period Ending on January 20, 2012 and Claim Nos. 25272-25361 in the Amount

GORDON, JENNIFER	33.86
GOVERNMENT FINANCE OFFICERS ASSOC	190.00
GRAHAM CONTRACTING LTD.	443,599.44
GRAINGER	6,995.27
GRAY & OSBORNE, INC	37,634.61
GREGORY, JOANNE	1,151.60
GREYSTONE COMMERCIAL SERVICE LP	174.79
GRIESEL, LEONARD	5,849.50
H.W. LOCHNER, INC.	275,120.74
HAMMOND COLLIER WADE LIVINGSTONE	1,770.00
HANSON CONSULTING SERVICES	1,269.00
HARRIS COMPUTER SYSTEMS	6,317.06
HARRIS, LESLIE	3,047.89
HDR	200,626.61
HEARTLAND	22,920.97
HEATERMEALS	1,193.21
HESSLER, ANDREW	1,800.00
HERO HOUSE	1,936.25
HICKS, KATHLEEN	97.64
HOME DEPOT CREDIT SERVICES	1,434.37
HONEY BUCKET	1,020.40
HOPELINK	66,365.25
HOPKINS, CRAIG	557.31
HORIZON DISTRIBUTORS INC	680.48
HULQUIST HOMES	7,500.00
ICMA RETIREMENT TRUST 457 - 304745	62,688.17
ICOMPASS TECHNOLOGIES, INC.	16,600.00
INDEPENDENT STATIONERS	6,162.74
INFRASOURCE CONTRACTING LLC	29.36
INGLEWOOD GOLF COURSE	2,475.00
INSLEE, BEST, DOEZIE & RYDER, P.S.	318,077.30
INSTITUTE FOR FAMILY DEVELOPMENT	15,938.00
INSTRUMENTATION NORTHWEST INC.	1,560.58
INTEGRA TELECOM	10,420.22
INTERNATIONAL CITY/CNTY MGMT ASSOC	2,154.43
INTERNATIONAL INST OF MUNI CLERKS	560.00
IRIS WINDOW COVERINGS NW, INC.	1,382.81
IWORQ SYSTEMS	8,600.00
J&K ASSOCIATES	10,789.04
J. MURPHEY CONSTRUCTION	42.67
JACOBSON, BETTS & COMPANY	6,533.12
JBS INSTRUMENTS	3,360.75
JET CITY PRINTING	4,439.65
JOHN E. REID & ASSOCIATES	580.00
JONES & STOKES	129.31
JORVE CORPORTATION	46,509.16
JRW ENTERPRISES	413.36
JURASSIC PARLIAMENT	3,306.07
KCDA PURCHASING COOP	9,328.55
KEEP POSTED INC	173.00
KELLY PRINTING & GRAPHICS	6,908.93
KELLY THOMAS, INC.	11,587.29
KENMORE AIR	275.00
KENMORE ELEMENTARY PTA	7,666.67

VB. Approval of Claim Nos. 25236 in the Amount of \$2,313.17; 25237-25271 in the Amount of \$132,226.24 for the Period Ending on January 20, 2012 and Claim Nos. 25272-25361 in the Amount

KENMORE HERITAGE SOCIETY	25.00
KENYON DISEND, PLLC	14,104.37
KEY EQUIPMENT FINANCE	2,697.00
KING COUNTY	1,672.65
KING COUNTY W.L.R.D.	352,832.05
KING COUNTY ANIMAL SVCS	6,080.00
KING COUNTY ARCHIVES	82.90
KING COUNTY DEPT OF CONST PROP SVCS	1,503.57
KING COUNTY DISTRICT COURT	35,497.00
KING COUNTY FINANCE	1,361,182.65
KING COUNTY FIRE DISTRICT	850.00
KING COUNTY FLEET ADMIN	441.31
KING COUNTY LIBRARY SYS	33,440.00
KING COUNTY OFFICE PUBLIC DEFENSE	11,750.90
KING COUNTY PARKS	5,339.21
KING COUNTY RADIO COMM SERVICES	9,704.05
KING COUNTY RECORDER'S OFFICE	819.00
KING COUNTY SHERIFF	3,214,742.58
KING COUNTY TREASURY	38,810.75
KOMPAN, INC	345.64
KONICA MINOLTA BUSINESS SOLUTIONS	10,062.16
KUKER-RANKEN INC	536.98
KUSTOM SIGNALS, INC.	500.33
LACHAPELLE, NATALIE	300.00
LEE, MYUNG	2,252.00
LIGHTHOUSE CONSULTING INC	37,066.62
LOEWEN, RON	76.00
LONGFELLOW, JONATHAN	420.00
LORBIECKI, GLENN	50.00
LYONS, KEN	6,687.40
MAACO	368.96
MAAS, NORMAN	2,520.00
MAGEE, STEVEN	9,192.00
MAIL FINANCE	3,523.18
MATRIX CONSULTING GROUP	40,000.00
McKEE & SCHALKA	5,500.00
MCNAMARA SIGNS	191.63
MICHAEL TERRY'S TRAPPING	960.00
MIDMOUNTAIN CONTRACTORS, INC	827,157.45
MILNE ELECTRIC, INC	24,991.83
MINZGHOR, NICHOLAS	1,495.68
MOBILE ELECTRICAL DISTRIBUTORS INC	87.27
MR. T'S TROPHIES	1,550.33
NAMI EASTSIDE	1,200.00
NATIONAL ALLIANCE ON MENTAL ILLNESS	1,481.50
NATIONAL ASSOC OF PARLIAMENTARIANS	85.00
NATIONAL BARRICADE CO	2,943.91
NATIONAL LEAGUE OF CITIES	5,439.00
NATIONAL LIFE OF VERMONT	4,818.81
NATIONWIDE FINANCIAL 401a	271,366.36
NATIONWIDE RETIREMENT SOLUTIONS 457	36,780.00
NEBC	195.00
NetVersant	9,959.70
NEXTEL COMMUNICATIONS	11,631.44

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NEXXPOST	287.31
NORTH COAST ELECTRIC	2,497.13
NORTH CREST DEVELOPMENT CORP.	1,794.00
NORTHSHORE FIRE DEPT	8,622.60
NORTHSHORE PAVING INC	537.90
NORTHSHORE SCHOOL DISTRICT	1,364.45
NORTHSHORE SENIOR CENTER	29,750.00
NORTHSHORE UTILITY DIST	122,157.14
NORTHSHORE YMCA	7,096.00
NORTHSHORE YOUTH & FAMILY SERVICES	40,000.00
OAC SERVICES, INC	46,608.46
OAKSTONE WELLNESS	128.07
OFFICE CLEANING CREW	7,862.85
OFFICE DEPOT	917.01
OFFICE MAX	1,351.19
OFFICE TEAM	14,383.73
OLYMPIC ENVIRONMENTAL RESOURCES	46,276.89
OM WORKSPACE	5,418.58
ORB ARCHITECTS	8,725.97
OSTROM DRUGS	557.40
OTAK	190,307.30
OUSLEY, NANCY	1,416.30
PACE ENGINEERS, INC.	3,057.50
PACIFIC NW TITLE CO OF WA, INC	1,171.00
PACIFIC TOPSOILS	15,285.45
PASSPORT TRAVEL AND TOURS	7,257.90
PAWS	10,505.00
PENDLETON CONSULTING LLC	10,044.47
PEOPLES STORAGE	2,422.00
PERKINS COIE	10,805.59
PERTEET INC.	5,998.29
PETTY CASH CUSTODIAN	1,985.56
PHOTOTAINMENT	876.00
PHSI PURE WATER FINANCE	1,509.45
PLATT	506.41
PRIME PACIFIC BANK	60.00
PROTHMAN COMPANY	9,053.25
PRO-VAC	15,817.98
PRSA	554.00
PRUDENTIAL	1,492.52
PSR MECHANICAL	735.84
PUGET SOUND BUSINESS JOURNAL	94.00
PUGET SOUND CLEAN AIR AGENCY	10,989.00
PUGET SOUND ENERGY	741,008.08
PUGET SOUND FINANCE OFFICERS ASSOC	125.00
PUGET SOUND REFRIGERATION	2,207.52
PUGET SOUND REGIONAL COUNCIL	7,390.00
PURDY, MICHAEL E.	150.00
PURE WATER TECH OF PUGET SOUND	136.88
QUALITY BUSINESS SYSTEMS	19,020.77
RANDALL, BRIAN	296.37
RCS VALUATION CORP	2,000.00
RICHARD & SHARON ARKLEY LIVING TRUS	2,300.00
RODGERS, MICHAEL	184.00

VB. Approval of Claim Nos. 25236 in the Amount of \$2,313.17; 25237-25271 in the Amount of \$132,226.24 for the Period Ending on January 20, 2012 and Claim Nos. 25272-25361 in the Amount

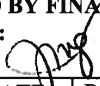
ROGERS, GLENN	2,512.74
RON KASPRISIN AIA	902.29
RONGERUDE, JOHN	150.00
ROUNDY, CASSANDRA	50.00
RUEB, DAVID	1,440.61
S & S UPHOLSTERY	2,135.25
SAFRIN, PATTY	979.57
SARAH ROBERTS	120,000.00
SCHINDLER ELEVATOR CORPORATION	2,106.01
SCHLOTZHAUER FIRM PS	17,080.00
SEATTLE TIMES	8,100.44
SEATTLE VISITING NURSE ASSOCIATION	112.00
SECRETARY OF STATE	55.00
SEES TREES AND EXCAVATION INC	4,479.84
SEMAIHMUO RESORT	1,041.12
SERVICE ELECTRIC	869.08
SESAC	296.00
SHARAM FAMILY	19,444.40
SHATTUCK, NANCY	8,800.00
SHORELINE PUBLIC SCHOOLS	450.00
SHRED-IT	693.00
SIMPSON, ARTHUR	969.00
SKYLINE WINDOWS, INC.	134.69
SMITH, JARRETT	50.35
SNOHOMISH COUNTY	78,742.06
SNOHOMISH COUNTY SHERIFF'S OFFICE	117,776.13
SOUND LAW CENTER	16,747.50
SOUND PUBLISHING, INC.	6,550.65
SPECIAL ASPHALT PRODUCTS	5,996.09
SPERRY, LAURIE	250.00
ST EDWARD STATE PARK	9,465.22
STAPLES ADVANTAGE	7,470.29
STAR NORTHWEST, INC	56,941.47
STARLIGHT CHILDRENS FOUNDATION	190.00
STATE AUDITOR'S OFFICE	20,279.22
STATE OF FLORIDA DISBURSEMENT UNIT	3,025.00
STEPHENS, MARY	12,500.00
STEWART BEALL MACNICHOLS	47,300.00
STOUDER, FRED	1,359.01
STRIPE RITE, INC.	2,200.95
SUBURBAN CITIES ASSOC	11,919.87
SUNBELT	4,927.56
SUSKIN, LYNN	990.21
SUSSMAN/PREJZA & CO, INC	52,154.84
TACOMA SCREW PRODUCTS, INC.	159.70
TAYLOR, GARY	2,800.00
TELESYSTEMS WEST	2,271.31
THE KIPPLINGER TAX LETTER	89.00
THE PIN CENTER	920.00
THE WILDERS	2,000.00
TIGER CONSTRUCTION & EXCAVATION	5,950.00
TIMEMARK INCORPORATED	106.76
TITAN OUTDOOR, LLC	862.00
TOTAL LANDSCAPE CORP	94,082.74

VB. Approval of Claim Nos. 25236 in the Amount of \$2,313.17; 25237-25271 in the Amount of \$132,226.24 for the Period Ending on January 20, 2012 and Claim Nos. 25272-25361 in the Amount

TOWN & COUNTRY FENCE, INC	1,615.13
TOWNE CENTRE HARDWARE	1,111.35
TRAFFIC COUNT CONSULTANTS, INC	5,250.00
TRAN, SHAUN & DINH LIEU	415.80
TRANE U.S. INC.	10,471.69
T-TRAN LANDSCAPING & CONCRETE	8,760.00
ULI/SEATTLE DISTRICT CNCL	45.00
UNITED STATES POSTMASTER	1,798.44
UNITED WAY OF KING COUNTY	1,495.00
UNIVERSAL FIELD SERVICES	27,275.25
UNIVERSITY OF WASHINGTON	1,210.00
UNIVERSITY OF WASHINGTON, BOTHELL	5,000.00
URBAN LAND INSTITUTE	225.00
US POSTAL SERVICE (HASLER)	8,228.32
VAN NESS, ALLAN	3,372.36
VAUGHAN, KENT	76.00
W.S.S.R.O.A.	450.00
WA ASSOC FOR FLOODPLAIN MANAGEMENT	100.00
WA ASSOC OF CODE ENFORCEMENT	40.00
WA CITIES INSURANCE AUTHORITY	124,502.00
WA FINANCE OFFICERS ASSOCIATION	450.00
WA GUARANTEED EDUCATION TUITION	5,602.50
WA RECREATION & PARK ASSOCIATION	129.00
WA STATE ASSOC OF PERMIT TECHNICIAN	35.00
WA STATE DEPARTMENT OF AGRICULTURE	33.00
WA STATE DEPT OF LABOR & INDUSTRIES	120.20
WA STATE DEPT OF RETIREMENT SYS	154.70
WA STATE DEPT OF TRANSPORTATION	5,892.96
WA STATE PARKS & RECREATION	2,700.00
WARDS NATURAL SCIENCE	1,237.95
WARNER, LOUIS	1.02
WASHINGTON CITY/COUNTY MGMT ASSOC	160.00
WASHINGTON ENERGY SERVICES	120.70
WASHINGTON MILITARY DEPARTMENT	5,009.34
WASHINGTON MUNICIPAL CLERKS ASSOC	75.00
WASHINGTON STATE DEPT OF INFO SERV	14,906.91
WASHINGTON STATE DEPT OF REVENUE	5,003.62
WASHINGTON STATE O.M.W.B.E.	200.00
WASHINGTON STATE OFFICE CASH MGMT	936.00
WASHINGTON TREE SERVICE INC	2,847.00
WEINSTEIN AU	22,005.11
WELLS FARGO BANK	2,483.66
WELLS FARGO FINANCIAL	5,312.50
WESTERN METAL ART & SIGN	244.74
WONDERLAND DEVELOPMENT	17,165.00
YAKIMA COUNTY DEPT. OF CORRECTIONS	59,400.05
YAMASATO, JON	1,750.00
YAZDIDOOST, KAMRAN	4,305.60
ZESBAUGH, INC.	423.77
ZONAR SYSTEMS	525.33
ZORNES, GARY	230.00
ZUMAR	544.98

14,567,141.70

VB. Approval of Claim Nos. 25236 in the Amount of \$2,313.17; 25237-25271 in the Amount of \$132,226.24 for the Period Ending on January 20, 2012 and Claim Nos. 25272-25361 in the Amount

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Authorize City Manager to execute Agreement No. 12-C1007 with King County and other jurisdictions for 2012 Aerial Imagery Acquisition in the amount of \$10,368.78.			February 13, 2012
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Engineering	Ron Loewen	Richard Sawyer	398-8900
COST OF PROPOSAL: \$10,368.78		ACCOUNT NUMBER: 41.00.5518	
AMOUNT BUDGETED: \$20,000		NAME AND FUND #: Surface Water Management Fund	
ATTACHMENT(S) TO AGENDA PACKET ITEM: 2012 Regional Aerial Mapping Funding Agreement No. 12-C1007			
SUMMARY STATEMENT: This agreement authorizes the City of Kenmore to participate in a consortium of approximately 50 other entities to obtain new high resolution aerial imagery. The consortium includes cities, counties, tribes, school, fire, sewer and water districts. By sharing many of the common costs associated with this type of work, the City will be able to save a considerable amount of money (as opposed to contracting for the services on our own). In addition to high resolution imagery, the vendor will also be supplying the City with new GIS layers including building outlines, impervious area outlines and 2 foot contours. This data will be utilized by the surface water management program to update property service charges, SWM GIS, and conveyance and facility maps. Current aerial imagery does not show updates to SR 522, Kenmore Library, City Hall or the Fire Station. King County is acting as the project manager for the day to day tasks, but reports to a project steering committee, which Kenmore is a member of. In December, 2011 an RFP was advertised and in January, 2012 a vendor was selected by committee. King County will be collecting funds from each agreement participant and will be responsible for paying the vendor. Any unused funds will be returned to the applicable agreement participant. The estimated costs of the agreement are \$2,313.21 for the aerial imagery and \$8,073.57 for the additional deliverables.			
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION: Consistent with the City's Mission Statement: • Effective and efficient services • Representation of Kenmore's interests in local and regional partnerships Consistent with 2011 – 2012 Mid Biennium Budget Amendments			
RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Authorize City Manager to execute Agreement No. 12-C1007 with King County and other jurisdictions for 2012 Aerial Imagery Acquisition in the amount of \$10,368.78.			
REVIEWED BY FINANCE DIRECTOR:	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER:	
			
TODAY'S DATE: February 2, 2012	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK): I:\GIS\Kenmore_GIS_Data\Aerials\2012_Ortho_Project\Agenda Bill Summary 2012 Aerial.docx	

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3:00pm

Last Revised: JG 12/10/08 @

VC. Authorize the City Manager to Execute Contract Agreement No. 12-C1007 with King County and other Jurisdictions for 2012 Aerial Imagery Acquisition in the Amount of \$10,368.78 - Ron

2012 Regional Aerial Mapping Funding Agreement

This Funding Agreement (Agreement) is entered into by and among: the City of Algona, the City of Auburn, the City of Bainbridge Island, the Bainbridge Island Fire Department, the Bainbridge Island Land Trust, the Bainbridge Island Metro Park and Recreation District, the City of Bellevue, the City of Bothell, the City of Bremerton, the City of Burien, the City of Clyde Hill, the City of Covington, the Covington Water District, the City of Des Moines, the City of Enumclaw, the City of Federal Way, the City of Issaquah, the King County Water District 125, the City of Kenmore, the County of King, the City of Kirkland, the County of Kitsap, the Kitsap Public Utility District, the Lakehaven Utility District, the City of Lynnwood, the City of Maple Valley, the City of Medina, the City of Mercer Island, the Midway Sewer District, the Muckleshoot Tribe, the City of Newcastle, the City of Normandy Park, the North Kitsap Fire and Rescue, the City of Pacific, the Port of Seattle, the City of Poulsbo, , the City of Redmond, the City of Renton, the City of Sammamish, the City of SeaTac, the City of Seattle, the City of Shoreline, the S'Klallam Tribe, the City of Snoqualmie, the Suquamish Tribe, the City of Tukwila, the United States Geological Survey, the Valley View Sewer District, the West Sound Utility District, the City of Woodinville, the Town of Yarrow Point, and other counties, cities and governmental service agencies that later join (hereinafter "Party" or Parties").

RECITALS

WHEREAS, the Parties to this Agreement consist of a consortium of local governmental entities, including counties, cities, and governmental services agencies; and

WHEREAS, this funding agreement is authorized by chapter 39.34 RCW, the Interlocal Cooperation Act, which allows local governmental entities to make efficient use of their resources by cooperating with each other on a basis of mutual advantage to meet the needs of local communities; and

WHEREAS, the purpose of this Agreement is to permit the Parties to cooperate on the funding of a 2012 Regional Aerial Mapping Project (Project); and

WHEREAS, the Project will utilize vendor services for the production of orthoimagery and related aerial mapping, and include a structure for funding, governance, technical and administrative management, and quality control/quality assurance (QC/QA) of deliverables from the selected vendor (Vendor); and

WHEREAS, agencies throughout the Pacific Northwest region regularly engage in joint operations and provide mutual assistance through effective interagency cooperation. Jointly funding the Project will optimize the agencies' powers and resources, and ensure a standardized product for all participants; and

WHEREAS, this Agreement will provide substantial benefit to the citizens of the participating governmental agencies;

NOW THEREFORE, it is hereby agreed and covenanted among the undersigned as follows:

I. PROJECT DESCRIPTION

All Project details, technical specifications, and deliverable descriptions will appear in the Statement of Work (SOW) to be developed for inclusion in the Invitation to Bid (ITB). Bid submittals will be reviewed, including reference checks. Any bid failing to meet all requirements of the SOW will be rejected. All other bids will be considered accepted and will be ranked based on price. The lowest priced, accepted bid that fully meets all requirements of the SOW will constitute the contract between King County (as representative of the signatories of this Agreement), and the Vendor. The primary Project goal (Standard Deliverables) is 3-inch, 6-inch, and 12-inch resolution orthoimagery, both natural color and near infrared, as well as stereo models, and supporting data. Project costs are shared where Areas of Interest (AOIs) overlap, in turn reducing each Party's financial commitment. A secondary Project goal (Supplemental Deliverables) is ancillary datasets such as transportation impervious, structure rooflines, other impervious surfaces, and detailed contours derived from the Standard Deliverables. These costs will be paid solely by those Parties providing an AOI for these products, discounted for any savings from overlap among the AOIs.

II. PROJECT MANAGER

1. King County shall appoint a King County Project Manager (PM) to manage the Vendor contract on a day-to-day basis. The PM shall report to and make recommendations to the Project Steering Committee (PSC) on the matters described in Section III.2 below, and shall be readily accessible via phone and e-mail by all Parties. The PM shall remain an employee of King County at all times, and King County shall retain the right and duty to supervise the PM at all times. King County will assume all personnel costs associated with project management for the Project.
2. The duties of the PM shall include:
 - a. Form subcommittees and workgroups as needed by the Project, and as directed by the PSC, including a Technical Work Group (TWG).
 - b. In consultation with the TWG, work with, as necessary and as available, supplemental personnel resources as described in Section V.
 - c. Prepare a cost-allocation model for review and acceptance by the PSC. Upon acceptance, populate the model with required data to provide each Party with accurate cost estimates, and a final cost once a bid has been accepted.

- d. Coordinate with King County Procurement to incorporate the SOW into an ITB; advertise the ITB; address any bid addendums; and evaluate, rank, and summarize bid submittals for review by the TWG and the PSC.
 - e. Prepare written justification for all bids that are rejected.
 - f. Manage the Vendor contract on a day-to-day basis and provide direction and guidance to the Vendor as requested by the PSC.
 - g. Report to the PSC and the TWG frequently on the Vendor's progress.
 - h. Account for delivery of all Standard and Supplemental Deliverables, including a defined, but limited, quality check, and coordinate the more detailed QC/QA reviews to be performed by the TWG.
 - i. Submit Vendor change order requests to the TWG and the PSC for evaluation and determination of response.
 - j. Submit Vendor invoices to the PSC and direct payment of such invoices by the Fiscal Agent upon approval of the invoice by the PSC.
3. The PM will provide staff support for and participate in PSC meetings, but shall not be a voting member of the PSC.

III. PROJECT STEERING COMMITTEE

1. A Project Steering Committee (PSC) shall be formed and shall consist of one voting representative from each Party that is a signatory to this Agreement. The TWG will provide one voting representative to the PSC. The PM, as a non-voting member of the PSC, will provide coordination among the PSC, the TWG, and the Vendor. The King County GIS Manager, as the King County representative, will serve as the Chair of the PSC.
2. The PSC shall direct the PM on all substantive decisions concerning the work and shall review and take final action on the following specific items:
 - a. Approve the Project methodology and calculations for cost allocation developed by the PM.
 - b. Approve the SOW jointly developed by the TWG and the PM prior to issuance of the ITB. The SOW will include a schedule for completion of the entire Project.
 - c. Review and approve joint recommendations by the PM and the TWG on the lowest-cost bid submittal that meets all requirements of the SOW.
 - d. Determine a contingency percentage to be applied to the cost allocation model in addition to the Vendor contract price as set forth in Section VII.2.
 - e. Receive reports from the PM for management of the Vendor contract and deliverables.
 - f. Approve the Quality Control/Quality Assurance (QC/QA) Plan developed jointly by the PM and the TWG. Review and approve

- QC/QA results developed and submitted jointly by the PM and the TWG, including rejected deliverables and a timeline for redelivery.
 - g. Evaluate and provide direction to the PM regarding change order requests whether initiated by the Vendor or by a member or members of the PSC.
 - h. Authorize Vendor payments as submitted by the PM.
 - i. Develop administrative policies necessary for proper functioning of the PSC, and provide direction for the TWG and other ad hoc groups as may be necessary.
3. Each representative of the PSC may appoint an alternate representative who shall be empowered to act on behalf of the primary representative.
 4. The PSC will make decisions by consensus. However, if consensus cannot be reached, any PSC member may call for a vote. Matters must be approved either by a simple majority of all members present at a meeting, or if the matter is proposed by email in accordance with Section III.5, by a simple majority of the PSC members.
 5. Meetings of the PSC shall be held on an as-needed basis. Meetings may be scheduled at the request of the Chair of the PSC, the PM, or by a majority of the PSC members. The Chair shall be responsible for the logistics of scheduling PSC meetings. Attendance may be in person or via teleconferencing. When required, voting by email will be acceptable.

IV. TECHNICAL WORK GROUP

1. The responsibilities of the Technical Work Group (TWG) shall include:
 - a. Create a SOW for the Project and submit the SOW to the PSC for its approval.
 - b. Review bid(s) ranked by the PM and provide a recommendation to the PSC on ranked bid(s), if any.
 - c. Perform necessary QC/QA for Project deliverables and report results to the PM for communication to the Vendor.
 - d. Execute any other tasks as may be required by the PSC.
2. The TWG will provide one voting representative to the PSC.
3. The TWG shall consist of one voting representative from each Party that is a signatory to this Agreement. A Party's PSC representative may also represent the Party on the TWG.
4. The TWG will make decisions by consensus. However, if consensus cannot be reached, any TWG member may call for a vote. Matters must be approved either by a simple majority of all members present at a meeting, or if the

matter is proposed by email in accordance with Section IV.5, by a simple majority of the TWG members.

5. Meetings of the TWG shall be held on an as-needed basis. Meetings may be scheduled at the request of the chair of the PSC, the PM, or by a majority of the TWG members. The PM shall be responsible for the logistics of scheduling TWG meetings. Attendance may be in person or via teleconferencing. When required, voting by email will be acceptable.

V. SUPPLEMENTAL RESOURCES

1. The PM, in consultation with the TWG, may work with, as necessary and as available, supplemental resources with demonstrated technical expertise related to the project. Contemplated supplemental resources include a registered photogrammetrist (or equivalent expertise); and supplemental project management with proven production and regional project experience.
2. Supplemental resources, when provided, will be beneficial to the project participants. All project costs associated with a registered photogrammetrist (or equivalent expertise) shall be borne by King County; and all supplemental project management costs shall be borne by the Party providing the support.

VI. FISCAL AGENT

1. King County, acting as fiscal agent for the Project, shall:
 - a. Enter into a Vendor contract.
 - b. Validate the cost for each Party.
 - c. Invoice each Party in accordance with this Agreement.
 - d. Maintain Project funds in the King County Imagery Reserve, a separate, non-interest-bearing fund managed by King County GIS Fund 5481, to be disbursed as provided in this Agreement.
 - e. Pay Vendor invoices approved by the PSC.
 - f. Refund excess funds, if necessary.
2. King County shall perform and maintain an accounting of payments received from all Parties including: billings received from the Vendor, payments made to the Vendor, and unspent funds. King County shall provide a statement of this accounting to all Parties in email or writing quarterly or upon written (including e-mail) request.
3. Upon receipt of a notice of any record keeping dispute, King County shall notify all Parties and meet jointly with all interested PSC members within two (2) weeks to resolve any record keeping dispute.

VII. CONTRIBUTIONS BY PARTIES

1. By executing Counterparts, Section XIX of this Agreement, each Party agrees to pay its required monetary contribution, as stated on the signature page, for all Standard and Supplemental Deliverables for its AOI.
2. The actual contribution for each Party (exclusive of grant funds) shall be calculated once the Vendor contract price is set, using the cost allocation model set forth below, which will include a contingency percentage to be determined by the PSC. Cost allocation model for Standard Deliverables (imagery and supporting data): Each Party's funding commitment will be factored as the cost per full 3000-ft x 3000-ft tile (Tile) that intersects its AOI, discounting for significant areas of water. For Tiles where AOIs overlap, the cost will be prorated equally among the affected Parties. Cost allocation model for Supplemental Deliverables: Each Party's commitment will be factored as the deliverable unit cost times the area of the Party's AOI for that deliverable. Where AOIs overlap for the same deliverable, the cost will be prorated equally among the affected Parties. It is the sole responsibility of any affected Party to define the SOW requirements for its Supplemental Deliverables and to pay full costs, if not prorated with another Party.
3. By signing this Agreement, each Party commits to paying its full contribution to the King County Imagery Reserve Fund by 4 p.m., February 29, 2012. Any qualifications to this commitment will be stated in Counterparts, Section XIX, for that Party. An invoice will be generated for each Party.
4. All payments to the King County Imagery Reserve Fund shall be made by check payable to King County Finance, and sent to King County GIS, 201 S Jackson St, Suite 706, Seattle, WA 98104, Attn: Katy Cressey.
5. By signing this Agreement each Party is committing to license the primary Standard Deliverables (orthoimagery and supporting data) for its AOI resulting from this Project. Default licensing terms will apply unless Party-specific licensing terms are included in the SOW. Each Party requiring licensing language different than the default will provide such language for inclusion in the SOW. In contrast, Supplemental Deliverables will be purchased (owned outright) by each Party committing to this Agreement.
6. Except for a contingency amount, as determined by the PSC, King County shall not collect funds in excess of the Vendor contract price unless the contract price has been amended with a PSC-approved change order. All funds collected by King County shall be used solely to pay the Vendor for work completed under the Vendor contract. King County shall not collect, receive or retain any of these funds for project management, administrative fees, or other actions it performs under this Agreement. Should there be an excess of funds, King County will refund any excess if greater than \$10, and if

the affected Party specifically requests the refund. Any excess not refunded shall remain in the Imagery Reserve Fund for use in subsequent regional imagery acquisitions, until this Agreement (or as amended) expires, at which time all remaining funds will be refunded to the affected Parties.

7. If a Party's contribution is made up in whole or in part of grant funds, the Party agrees to provide King County with a copy of the contract between itself and the grant funding agency in order to assist King County and the PSC in complying with the requirements of any such grant. The grant contract shall be provided as soon as possible after committing to this Agreement, and no later than when the Party deposits its funds with King County.
8. In addition to the fiscal commitment for funding the Standard Deliverables and optional Supplemental Deliverables, Parties may, but are not required to, contribute as follows:
 - a. Participate as a member or alternate to the PSC.
 - b. Participate as a member of the TWG or other committee. This may include assisting in establishing ground control, developing specifications for Supplemental Deliverables required by the Party, and developing QC/QA procedures for Standard and Supplemental Deliverables required by the Party.
 - c. Perform all detailed QC/QA of Standard and Supplemental Deliverables (if any) for its AOI using a TWG-defined plan and schedule. (The PM will perform limited, baseline assessment of the Standard Deliverables only).

VIII. ADDITION OF PARTIES

1. An entity may be added to this Agreement as long as the entity signs this Agreement by 4 p.m. December 2, 2011, or by 4 p.m. on the fourteenth (14th) day after the PSC selects a winning bidder, if after December 2nd, 2011.
2. A Party added to this Agreement shall make full payment to the King County Imagery Reserve Fund by 4 p.m. February 29, 2012. A Party may contribute its share from its budget for either FY 2011 or FY 2012.
3. Any entity who wishes to participate in the Agreement after the date established in VIII.1 may become a Party by contributing the required funds to the King County Image Reserve Fund. This contribution will be the full cost (not prorated if shared by other Parties) of a Tile, if a Standard Deliverable, or the applied unit cost, if a Supplemental Deliverable. Any funds due to a Party, whose cost would have otherwise been prorated due to the additional Party, will be managed per Section VII.6.

IX. INDEPENDENT CONTRACTOR

The services provided by King County under this Agreement are those of an independent contractor. Employees of King County are and will remain employees of King County. Employees of the other Parties are and will remain employees of their respective Parties. Nothing in this Agreement shall be construed to render the Parties partners or joint venturers.

X. INDEMNIFICATION

Each Party shall defend, protect and hold harmless the other Parties from and against all claims, suits and/or other actions arising from any negligent or intentional act or omission of that Party's employees, agents and/or authorized subcontractor(s) while performing this Agreement.

XI. AMENDMENT

The Parties may amend this Agreement. Such amendments shall not be binding unless in writing and signed by personnel authorized to bind each of the Parties.

XII. CHOICE OF LAW AND VENUE

This Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance. Any action at law, suit in equity or other judicial proceeding for the enforcement of this Agreement shall be instituted only in a court of competent jurisdiction in King County.

XIII. INTEGRATION CLAUSE

This instrument embodies the entire agreement of the Parties with respect to funding of the Vendor contract. There are no promises, terms, conditions or obligations other than those contained in this Agreement. This Agreement supersedes all previous communications, representations or agreements, either oral or written, between any Party and King County.

XIV. TERMINATION CLAUSE

In the event that King County decides not to hire a Vendor, this Agreement will terminate and all Parties will receive a full refund of their contributed funds.

XV. NO ASSIGNMENT

The Parties shall not subcontract, assign, or delegate any of their rights, duties or obligations under this Agreement without the express prior written approval of King County.

XVI. DISPUTES

In the event that a dispute arises under this Agreement, the Parties shall endeavor to resolve the dispute in an amicable manner by direct discussions. The Parties may elevate the dispute to the PSC for resolution. If not resolved by the PSC by mutual agreement, then the Parties may engage in alternative dispute resolution by mutual agreement. No party waives its rights to seek legal remedy in the jurisdiction and venue stated in Section XII.

XVII. NOTICES

All notices and other communications shall be given to the PM and all notices and other communications to the other Parties shall be given to the PSC member for each Party. Notices shall be given in writing and shall be sufficiently given and shall be deemed given three (3) calendar days after the date by which the same has been (a) mailed by certified mail, return receipt requested, postage prepaid, to the mailing address shown adjacent to the signatures of the Party to whom it is addressed or (b) sent by email, with adequate proof of receipt retained by the sender, to the email address shown adjacent to the signatures of the Party to whom it is addressed. Any of the Parties may, by notice to all other Parties, designate any further or different addresses to which subsequent notices or other communications shall be sent.

XVIII. EFFECTIVE DATE; TERM

Notwithstanding when this Agreement is signed, this Agreement shall take effect following its execution by each Party and shall expire at the end of 2014 unless terminated sooner. This Agreement may be amended to allow it to be used for subsequent coordinated data collection efforts, including, but not limited to, future orthoimagery acquisitions.

XIX. COUNTERPARTS

This Agreement may be signed in several counterparts, each of which shall be an original, but all of which together shall constitute the same instrument.

The Funding Commitment information from each Party will be summarized in a report distributed to all members of the PSC.

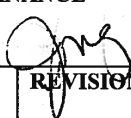
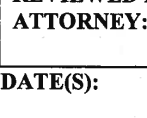
Name of Party	1. Funding Commitment: Standard Deliverables (imagery)	2. Funding Commitment: Supplemental Deliverables	Funding Commitment: TOTAL
City of Kenmore	\$2,313.21	\$0.00	\$2,313.21

Note: Item 1 cost includes contingency (15% applied to base imagery base cost only) and applicable tax (9.5% applied to base imagery base cost only)

Item 2 total includes contingency (15% applied to supplemental base cost only) and applicable tax (9.5% applied to supplemental base cost only)

Funding Commitment TOTAL is the sum of Item 1 and Item 2

Party	<u>City of Kenmore</u>
Name	_____
Title	<u>City Manager</u>
Address	<u>19120 48th Ave NE</u>
Date	_____
Project Steering Committee Representative:	
Name	<u>Richard Sawyer</u>
E-Mail	<u>rsawyer@kenmore.wa.gov</u>
Phone	<u>425-348-8800</u>

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Authorize the City Manager to sign a Right of Way Deed dedicating 3,300 square feet of property owned by the City of Kenmore for NE 181st Street			February 13, 2012
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Engineering	Ron Loewen	Ron Loewen	425 398 8900
COST OF PROPOSAL: City Staff: 20 hours Contract: \$600		ACCOUNT NUMBER: N/A	
AMOUNT BUDGETED: SR 522 Phase I Stage 1 \$578,798		NAME AND FUND #: Arterial Street Fund	
ATTACHMENT(S) TO AGENDA PACKET ITEM: • Resolution dedicating right of way • Exhibit B • Right of Way Deed			
SUMMARY STATEMENT: As part of the NE 181 st Street improvements between 68 th Avenue NE and 67 th Avenue angle parking was installed along the north side of the street. The improvements extended beyond the right of line onto the Kenmore Village property owned by the City of Kenmore and administered by Urban Partners. Urban Partners requested and funded the angle parking improvements. An understanding was reached at the time that the parking would be public along with the sidewalk that borders the parking. At this time the City of Kenmore is considering improvements to the old Grocery Outlet parcel, Parcel B on the sketch, AFN 618170-0456, and it would be appropriate to dedicate the right of way. Attached is a deed dedicating the right of way, a sketch depicting the right of way to be dedicated from Parcel B and a resolution dedicating the right of way. A future resolution will be required to dedicate the right of way on the remaining City owned parcels to the west, previous City Hall, and the east, previous Ostrom's location.			
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION: Consistent with Council goal to improve transportation for local residents by implementing the 6-year Transportation Improvement Plan.			
RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Authorize the City Manager to sign a Right of Way Deed dedicating 3,300 square feet of property owned by the City of Kenmore for NE 181st Street			
REVIEWED BY FINANCE DIRECTOR: 	REVIEWED BY CITY ATTORNEY: 	APPROVED BY CITY MANAGER: 	
TODAY'S DATE: January 31, 2012	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK): S:\0174 Kenmore Village\Agenda Bill_021312.doc	

VD. Authorize the City Manager to Sign a Right of Way Deed Dedicating 3,300 Square Feet of Property Owned by the City of Kenmore for NE 181st Street - Ron Loewen, City Engineer

CITY OF KENMORE

WASHINGTON

RESOLUTION NO. 12-197

**A RESOLUTION OF THE CITY OF KENMORE,
WASHINGTON, DEDICATING A PORTION OF
ASSESSOR'S TAX PARCEL NO. 6181700456 ACQUIRED
BY THE CITY OF KENMORE AS STREET RIGHT OF
WAY.**

WHEREAS, the City of Kenmore acquired Assessor's Tax Parcel No. 6181700456, described in Exhibit A, in anticipation of redevelopment of Kenmore Village; and

WHEREAS, the portion of Assessor's Tax Parcel No. 6181700456 described in Exhibit B is required as NE 181st Street right of way for parking and sidewalk; and

WHEREAS, the City acquired Assessor's Tax Parcel No. 6181700456 with City Funds;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

The City Council dedicates the 3,300 square feet of property from Assessor's Tax Parcel No. 6181700456 described in Exhibit B as street right of way.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, AT A REGULAR MEETING THEREOF THIS 13th DAY OF FEBRUARY 2012.

CITY OF KENMORE

Mayor David Baker

ATTEST/AUTHENTICATED:

Lynn Suskin, City Clerk

Approved as to form:

Rod Kaseguma, City Attorney

EXHIBIT "A"

Parcel No. 618170-0456

Legal Description

The following described parcel:

The westerly 150 feet of the following described tract:

All of Block 13, Northlake Terrace, according to the plat thereof recorded in Volume 33 of Plats, page 20, in King County, Washington;

And a 20 foot alley lying within said block and addition and adjoining the northerly line of Lot 10 thereof;

And that portion of vacated Kenmore Avenue, now 67th Avenue Northeast, which lies easterly of a line drawn 390 feet west of and distant from the east boundary line of Block 13 of said addition.



Architects • Engineers
Landscape Architects
Planners • Urban Designers
Surveyors & Mappers

Project Number: 30648

EXHIBIT "B"

Parcel No. 618170-0456 Right of Way Acquisition

Legal Description

The southerly 22 feet of the following described parcel:

The westerly 150 feet of the following described tract:

All of Block 13, Northlake Terrace, according to the plat thereof recorded in Volume 33 of Plats, page 20, in King County, Washington;

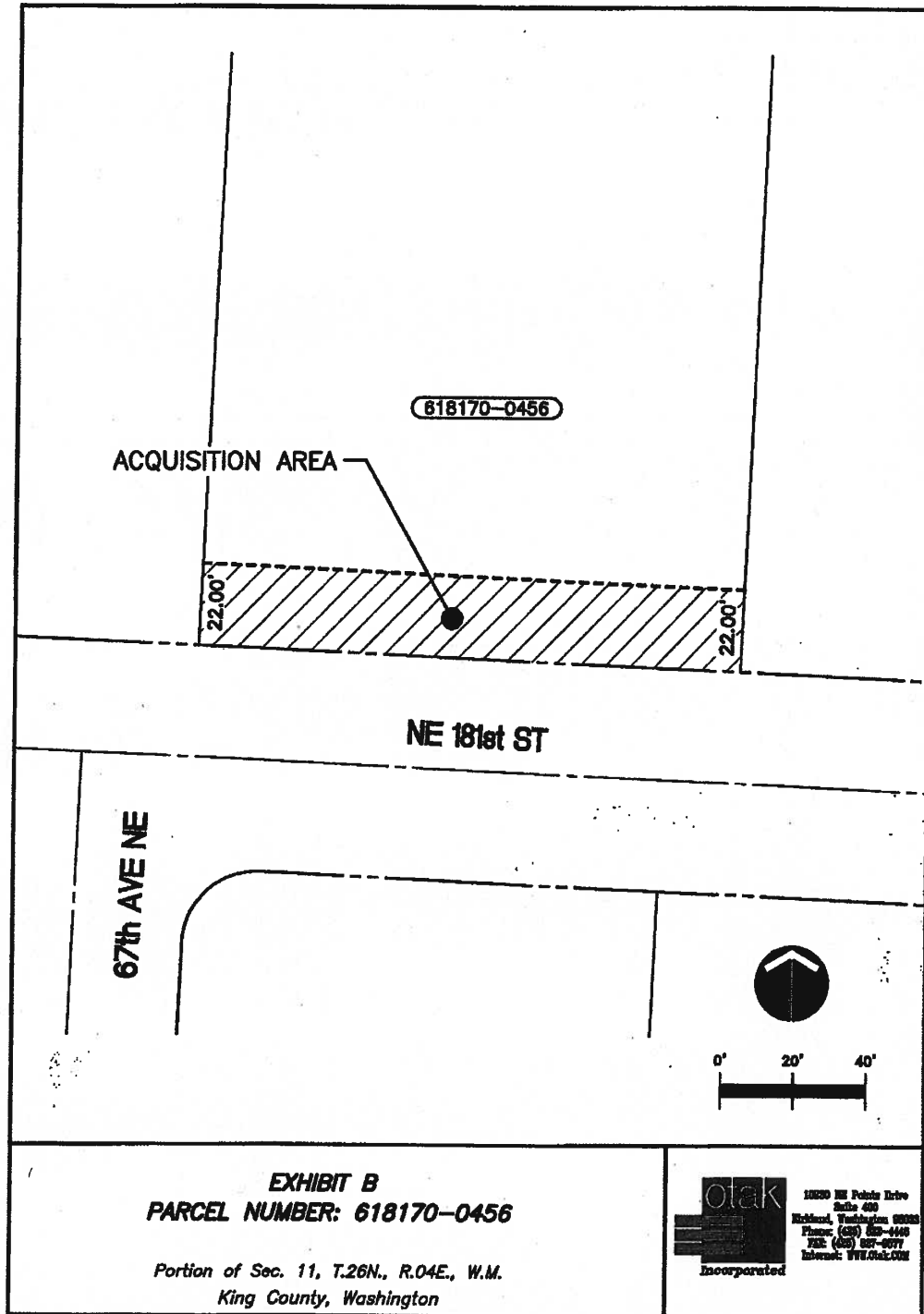
And a 20 foot alley lying within said block and adjoining the northerly line of Lot 10 thereof;

And that portion of vacated Kenmore Avenue, now 67th Avenue Northeast, which lies easterly of a line drawn 390 feet west of and distant from the east boundary line of Block 13 of said addition.

Containing 3,300 square feet, more or less.

10230 NE Points Drive • Suite 400 • Kirkland, WA 98033 • Phone (425) 822-4446 • Fax (425) 827-9577

S:\0174 Kenmore Village\Right of Way Dedication\Exhibit B G\Outlet.docx



VD. Authorize the City Manager to Sign a Right of Way Deed Dedicating 3,300 Square Feet of Property Owned by the City of Kenmore for NE 181st Street - Ron Loewen, City Engineer

AFTER RECORDING, PLEASE RETURN TO:

City of Kenmore
Attn: Lynn Bachelor
P.O. Box 82607
Kenmore, WA 98028

RIGHT-OF-WAY DEED AND SLOPE EASEMENT

Grantor(s): City of Kenmore, a municipal corporation

Grantee(s): City of Kenmore, a municipal corporation

Short Legal Description:

[Complete legal description on Exhibit A]

Assessor's Property Tax
Parcel/Account Number(s):
6181700456

Reference Number(s) of
Documents Assigned
or Released:

Grantor, the City of Kenmore, a municipal corporation of the State of Washington, is the fee owner of the real property which is legally described on **Exhibit A**, attached hereto and incorporated herein by this reference (herein the "Grantors' Real Property"). For and in consideration of the benefits of a public right-of way and Ten Dollars (\$10.00) and other good and valuable consideration, in hand paid, and in lieu of condemnation, Grantor hereby warrants and conveys to the City of Kenmore, a municipal corporation of the State of Washington, the portion of the Grantors' Real Property which is legally described on **Exhibit B**, attached hereto and incorporated herein by this reference (herein the "Right-of-Way"), in fee simple and not as an easement, for use and occupancy by the City of Kenmore and the general public for the construction, development, maintenance, repair, replacement and use of: (i) a roadway known as NE 181st Street; (ii) other reasonable and appropriate uses appurtenant to roadway and utility installation and use, including, without

limitation, sidewalks, curbs, gutters; and (iii) utility facilities for the benefit and use of the City of Kenmore and utility purveyors.

This Right-of-Way Deed is tendered by Grantor with the understanding that it shall not become binding on the City of Kenmore unless and until accepted and approved in writing for the City of Kenmore, Public Works Department, by the City Engineer or his duly authorized representative.

Dated this ____ day of _____, 2012.

GRANTOR:

By: _____

Its: _____

Accepted and approved on _____, 2012:
CITY OF KENMORE

(Print Name)

City Engineer

STATE OF WASHINGTON)

) SS:

COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument, and acknowledged it as the City Engineer of the CITY OF KENMORE, a municipal corporation, to be the free and voluntary act of such municipal corporation for the uses and purposes mentioned in the instrument.

DATED: _____

NAME: _____

(Print Name)

Notary Public in and for the State of Washington.

Commission Expires:

STATE OF WASHINGTON)

) SS:

COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, and acknowledged it as the _____ of the CITY OF KENMORE to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

DATED: _____

NAME: _____

(Print Name)

Notary Public in and for the State of Washington.

Commission Expires:

EXHIBIT "A"

Parcel No. 618170-0456

Legal Description

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All of Block 13, Northlake Terrace, according to the plat thereof recorded in Volume 33 of Plats, page 20, in King County, Washington;

And a 20 foot alley lying within said block and addition and adjoining the northerly line of Lot 10 thereof;

And that portion of vacated Kenmore Avenue, now 67th Avenue Northeast, which lies easterly of a line drawn 390 feet west of and distant from the east boundary line of Block 13 of said addition.



Architects • Engineers
Landscape Architects
Planners • Urban Designers
Surveyors & Mappers

Project Number: 30648

EXHIBIT "B"

Parcel No. 618170-0456 Right of Way Acquisition

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And that portion of vacated Kenmore Avenue, now 67th Avenue Northeast, which lies easterly of a line drawn 390 feet west of and distant from the east boundary line of Block 13 of said addition.

Containing 3,300 square feet, more or less.

10230 NE Points Drive • Suite 400 • Kirkland, WA 98033 • Phone (425) 822-4446 • Fax (425) 827-9577

S:\0174 Kenmore Village\Right of Way Dedication\Exhibit B G\Outlet.docx

City of Kenmore, Washington

Proclamation

WHEREAS, May 19th, 2012 is the second National Kids to Parks Day organized and launched by the National Park Trust; and

WHEREAS, National Kids to Parks Day empowers kids and encourages families to get outdoors and visit America's parks; and

WHEREAS, it is important to introduce a new generation to our nation's parks because of the decline in Park attendance over the last decades; and

WHEREAS, we should encourage children to lead a more active lifestyle to combat the issues of childhood obesity, diabetes mellitus, hypertension and hypercholesterolemia; and

WHEREAS, National Kids to Parks Day is open to all children and adults across the country to encourage a large and diverse group of participants; and

WHEREAS, National Kids to Parks Day will broaden children's appreciation for nature and the outdoors; and

WHEREAS, the City of Kenmore has been recognized by the national nonprofit organization KaBOOM! as a Playful City USA community; and

WHEREAS, the City of Kenmore features spectacular local and state parks and the Burke-Gilman Regional Trail; and

WHEREAS, The City of Kenmore recent park investments include the addition of new playground equipment and basketball court at Rhododendron Park, partnership with Bastyr University to renovate the athletic fields to include two baseball fields and one soccer field for use by the community, and continued maintenance; and

NOW THEREFORE, the Kenmore City Council does hereby proclaim to participate in National Kids to Parks Day. We urge residents of Kenmore to make time May 19th to take the children in their lives to a neighborhood, state or national park.

IN WITNESS WHEREOF, signed this 13th day of February, 2012.

Signed _____
David Baker, Mayor

Attest _____
Lynn Suskin, City Clerk

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Adoption of Ordinance 12-0334 repealing Chapters 16.05, 16.10, 16.20, 16.25, 16.30, 16.35 and Chapter 19.15 of the Kenmore Municipal Code relating to shoreline management; adopting a comprehensive Shoreline Master Program update consistent with the Shoreline Management Act and state guidelines; adopting the Shoreline Environment Designations Map; renumbering and revising Chapter 16.40 of the Kenmore Municipal Code relating to flood damage prevention; amending 18.55.030, 18.55.040, 18.55.120, 18.55.160, 18.55.170, 18.55.180, 18.55.210, 18.55.320, 18.55.330, 18.55.530, 19.25.020 and 19.30.070 of the Kenmore Municipal Code to be consistent with the comprehensive Shoreline Master Program update; amending Exhibit 2 of Ordinance No. 10-0312 to designate tax parcels 1426049013 and 1426049014 as Natural; and providing an effective date.			February 13, 2012
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Community Development	Debbie Bent	Debbie Bent	425-398-8900
COST OF PROPOSAL: ESA Adolfsen consultant contract \$188,900 (Contract 07-C632 with amendments #1, 2, and 3). Planning Commission and Citizen Advisory Committee volunteer time to attend approximately 18+ meetings from 2007 through January 2010. 9 Council Meetings from February 2010 through November 2011. Community Development staff support for project management, review of materials, meeting attendance, and mailings. City attorney support preparing ordinances.		ACCOUNT NUMBER: 01 58 5506	
AMOUNT BUDGETED: Consultant costs (\$188,900) are reimbursed from the Department of Ecology Shoreline Grant (\$146,200). Consultant costs not reimbursed from the DOE grant are reimbursed from the City's General Fund (\$42,700). The 2007 budget included \$25,000; the 2008 budget included \$38,000; the 2009 budget included \$38,000; the 2010 budget included \$11,000; and the 2011-2012 budget includes \$5,000.		NAME AND FUND #: General Fund No. 01	
ATTACHMENT(S) TO AGENDA PACKET ITEM: 1. Memo dated 1/13/12 from Debbie Bent and Lauri Anderson 2. Ordinance 12-0334 with four attached exhibits.			
SUMMARY STATEMENT: Staff recommends that on 2/13/12 Council pass a motion adopting Ordinance 12-0334 (see Attachment #2). Ordinance 12-0334 incorporates the Department of Ecology's 7/25/11 changes to the Shoreline Master Program (SMP) that were endorsed by Council at the 11/21/11 Council meeting and the City's four proposed alternatives (see Attachment #1) provided to Ecology 11/22/11. Council adoption of Ordinance 12-0334 provides Ecology the opportunity to issue their final approval of the City's SMP concurrently with their approval of the four alternative proposals. Ecology must give final approval before the ordinance goes into effect. On 1/5/12 city staff received verbal notice from David Radabaugh (Ecology staff) that a recommendation of approval on the ordinance and four alternatives would be going forward to Ecology's director for final action.			
The City Council approved two ordinances (Ordinance 10-0312 and Ordinance 10-0313) on 9/13/10 adopting an updated Shoreline Master Program (SMP) for the city. The ordinances were sent to the Department of Ecology (Ecology) as Ecology must give final approval to the SMP before it becomes			

VIIIA. Adoption of Ordinance No. 12-0334 Repealing Chapters 16.05, 16.10, 16.20, 16.25, 16.30, 16.35 and Chapter 19.15 of the Kenmore Municipal Code Relating to Shoreline Management;

effective. In a letter dated July 25, 2011, Ecology provided a list of required changes to the SMP that would make it "approvable" and several suggested changes. The Council considered Ecology's required and suggested changes at 3 meetings: September 26, November 14 and November 21, 2011. At the November 21, 2011 Council meeting, the Council endorsed most of Ecology's required and suggested changes to the SMP but passed a motion that directed staff to provide a letter to Ecology requesting consideration and approval of four alternatives. A letter dated 11/22/11 (see Attachment #1) to Ecology outlined the City's four alternatives.

CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION: Council included the update of the SMP on the 2008 and 2009 dockets and forwarded the docket work program item to the Planning Commission for review and recommendation. At the 2/25/10 Council meeting, the Planning Commission presented their final recommendation on the SMP to the Council. The Council opened a public hearing on the draft SMP on 3/29/10, continued it to 5/27/10, and then agreed to continue it to 9/13/10. The Council considered amendments to the Planning Commission's recommendation at several meetings (July 8, July 13 and July 26). The Council adopted two ordinances (10-0312 and 10-0313) approving the City's Shoreline Master Program on 9/13/10—to be effective upon Department of Ecology's approval. In a letter dated 7/25/11, Ecology provided a list of required changes to the SMP that would make it "approvable." Ecology also has provided several suggested changes. The Council considered the changes at three meetings: September 26, November 14 and November 21, 2011. At the November 21, 2011 Council meeting, Council endorsed most of Ecology's required and suggested changes to the SMP and directed staff to provide a letter to Ecology requesting four alternatives. A letter dated 11/22/11 to Ecology outlined the City's four alternatives.

RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Council motion to adopt Ordinance 12-0334 adopting the city's Shoreline Master Program. Repealing Chapters 16.05, 16.10, 16.20, 16.25, 16.30, 16.35 and Chapter 19.15 of the Kenmore Municipal Code relating to shoreline management; adopting a comprehensive Shoreline Master Program update consistent with the Shoreline Management Act and state guidelines; adopting the Shoreline Environment Designations Map; renumbering and revising Chapter 16.40 of the Kenmore Municipal Code relating to flood damage prevention; amending 18.55.030, 18.55.040, 18.55.120, 18.55.160, 18.55.170, 18.55.180, 18.55.210, 18.55.320, 18.55.330, 18.55.530, 19.25.020 and 19.30.070 of the Kenmore Municipal Code to be consistent with the comprehensive Shoreline Master Program update; amending Exhibit 2 of Ordinance No. 10-0312 to designate tax parcels 1426049013 and 1426049014 as Natural; and providing an effective date.

REVIEWED BY FINANCE DIRECTOR:	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER:
		
TODAY'S DATE:	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK):
January 13, 2012	January 31, 2012	



The City of Kenmore

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

MEMO

TO: Frederick Stouder, City Manager

FROM: Debbie Bent, Director of Planning & Community Development
Lauri Anderson, Senior Planner *LWA*

DATE: January 13, 2012

SUBJECT: Shoreline Master Program

On September 13, 2010, the City Council adopted two ordinances (10-0312 and 10-0313) approving the city's Shoreline Master Program. These ordinances were to be effective upon Department of Ecology (Ecology) approval. As required by WAC 173-26-110, the approved ordinances were then forwarded to Ecology for their review.

In a letter dated July 25, 2011 and received on July 28, 2011, Ecology provided their response to the adopted program in Findings and Conclusions, including required and suggested changes. At City Council meetings on September 26, November 14, and November 21, 2011, the City Council discussed the required and suggested changes, endorsed the city staff recommendations on these changes, and approved four "alternative proposals" to be sent to Ecology for their consideration. A letter was mailed to Ecology on November 22, 2011 providing these alternative proposals (see Attachment 1).

On January 4, 2012, the City received a verbal notice from Ecology staff (David Radabaugh) that a recommendation for approval of all four of the city's alternative proposals would be going forward to Ecology's director. After discussions with Ecology staff about the approval process, the City asked Ecology for additional time to prepare and adopt the ordinance incorporating these changes so that Ecology could give final approval to the city's Shoreline Master Program concurrently with the final decision on the alternative proposals (see Attachment 2). The ordinance is enclosed for City Council action.

Attachments

- Attachment 1: Letter to Department of Ecology, dated November 22, 2011
Attachment 2: E-mail to David Radabaugh, dated January 5, 2012



City Of Kenmore, Washington

COPY

November 22, 2011

Ted Sturdevant, Director
WA State Department of Ecology
Attention: Director's Office
PO Box 47600
Olympia, WA 98504-6700

RE: City of Kenmore's Shoreline Master Program Update

Dear Mr. Sturdevant:

Thank you for Ecology's time and commitment during the City of Kenmore's Shoreline Master Program (SMP) approval process. At the City Council meeting on November 21, 2011, the Council endorsed most of Ecology's required and suggested changes to the City's SMP as outlined in your July 25, 2011 letter but also passed a motion to forward consideration of four alternative proposals to Ecology for your review. Before the City Council takes final action on an ordinance approving changes to the SMP, and pursuant to RCW 90.58.090(2)(e)(ii), we are presenting the following four "alternative proposals" for consideration by the Department of Ecology. The City Council respectfully requests timely review and is optimistic that Ecology will approve the Alternative Proposals. The City Council is eager to move forward to final adoption of Kenmore's SMP.

1. **Alternative Proposal 1 to Required Change #6. Amend KMC 16.55.050 subsection C as follows (new text in yellow highlighting, red text shows Ecology's required changes as stated in your July 25, 2011 letter):**

Rationale: This Alternative Proposal was requested by CalPortland because they are concerned that it is not clear that their loading/off-loading barging facility (related to their manufacturing use) is a "commercial use." The Council supports this clarifying language.

C. Proposals that do not meet the requirements of subsections B.6, 8, 9 or 15 of this section and that are designed to support a commercial or manufacturing water-dependent use, or to provide public access, or to serve residential uses, may be considered by the director. For any alternative proposal, the applicant must demonstrate that the proposed deviation is the minimum necessary to meet the needs of the specific use proposed, and provides an equal or greater degree of protection of ecological functions and anadromous species habitat than would strict adherence to the standards. For purposes of meeting this requirement, the director will review the required habitat management plan to determine whether the project is adequately protective.

2. **Alternative Proposal 2 to Required Change #9.** In place of amendments to KMC 18.55.330.G.1, amend the following sections (new text in yellow highlighting, black text shows the language approved by Council September 2010, red text shows Ecology's required changes as stated in your July 25, 2011 letter):

Rationale: This Alternative Proposal to Required Change #9 provides clarification that the modified mitigation ratios are only applicable to wetlands within the shoreline jurisdiction as previously agreed to by Ecology.

AMEND KMC 16.65.010.C as follows (new text in yellow highlighting, black text shows text approved by Council September 2010, red text shows Ecology's required language as stated in your July 25, 2011 letter):

- C. For development in critical areas and critical area buffers, the applicable provisions of **Section Chapter** 18.55 **KMC** apply unless a specific exception is provided in the shoreline code.
1. Because Lake Washington, the Sammamish River, and Swamp Creek are all fish and wildlife habitats of importance, a habitat management plan is required for any in-water or overwater development or activity, per KMC 18.55.520.
 2. Within the shoreline jurisdiction, the required acreage replacement ratios for wetlands shall be as follows:

Wetland Mitigation Ratios:

<u>Category and Type of Wetland</u>	<u>Creation or Reestablishment (C/R)</u>	<u>Creation (C) or Reestablishment (R) plus Enhancement (E)</u>	<u>Enhancement (E) Only</u>
Class 1	3:1	1:1 C/R plus 6:1 E	Not Allowed
Class 1 (Mature Forested)	6:1	1:1 C/R plus 20:1 E	Not Allowed
Class 2	2:1	1:1 C/R plus 4:1 E	Not Allowed
Class 3	1.5:1	1:1 C/R plus 2:1 E	6:1

AMEND KMC Section 18.55.330.G.1 to provide cross-referencing as follows:

G. Mitigation Ratios.

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

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

The required acreage replacement ratios for wetlands within the jurisdiction of the Kenmore Shoreline Master Program are different from these standards. See KMC 16.65.010.C for required wetland mitigation ratios in the shoreline jurisdiction.

3. **Alternative Proposal 3 to Suggested Change #10.** If this Alternative Proposal is not acceptable to Ecology, the City will reject the Suggested Change and eliminate subsection 3 in its entirety. Amend KMC 16.75.050 subsection C as follows (new text in yellow highlighting, black text shows the language approved by Council September 2010, red text shows Ecology's required changes as stated in your July 25, 2011 letter):

Rationale: This Alternative Proposal would preserve the incentive to significantly improve the shoreline in exchange for expansion of a nonconforming structure, but would add an additional, more restrictive criterion for that expansion.

- C. Expansion of a nonconforming use or structure may be approved through the provisions of KMC 16.75.040 when the applicant demonstrates the following.
1. The project would substantially reduce the impacts of the existing use or structure on shoreline ecological functions, and
 2. The proposed expansion would not cause adverse impacts on adjacent shoreline uses.
 3. A nonconforming structure shall not be expanded closer to the shoreline. For a nonconforming structure located on land, any waterward expansion of the structure into the required setback would be offset by removal of another nonconforming structure of equal or greater footprint area in the shoreline setback, and the shoreline setback area would be restored with native riparian vegetation.

4. **Alternative Proposal 4. Alternative to KMC 18.55.530.A.1 as currently adopted into the Shoreline Master Program.** Amend 18.55.530.A.1 as follows (new text in yellow highlighting):

Rationale: In September 2010, the City Council approved Ordinance No. 10-0313 which adopted the SMP Update, and forwarded it to Ecology for review. In July 2011, the Council adopted a minor change to KMC 18.55.530 as part of a large package of amendments to clean up and clarify the city's development codes. Ecology staff indicated that this change should be brought forward as an alternative proposal since 18.55.530 is adopted into the SMP by reference. The revised language clarifies that development could occur within a fish and wildlife habitat of importance or buffer through procedures outlined in Chapter 18.55. The text continues to make a distinction for lands regulated under the SMP.

Ted Sturdevant
November 22, 2011

4 of 4

18.55.530 Performance standards — Specific habitats.

A. Endangered, Threatened, and Sensitive Species.

1, No development shall be allowed within a fish and wildlife habitat of importance or buffer with which state or federally endangered, threatened, or sensitive species have a primary association except as otherwise approved through this chapter. except that, for fish habitat of importance on lands regulated under the Kenmore Shoreline Master Program, development that also must meets the use and development requirements of the Kenmore Shoreline Master Program may be allowed.

Thank you in advance for Ecology's timely review of the four submitted Alternative Proposals. Please feel free to contact Debbie Bent, Director of Planning and Community Development, at 425-398-8900 if you have any questions regarding the content of this letter.

Sincerely,



Frederick C. Stouder
City Manager

cc: Dave Radabaugh, Department of Ecology
Peter Skowlund, Department of Ecology
Geoff Tallent, Department of Ecology
Mayor and members of the City of Kenmore Council
Debbie Bent, Director of Planning and Community Development
Lauri Anderson, Senior Planner

Lauri Anderson

From: Dawn Findlay Reitan [DReitan@insleebest.com]
Sent: Thursday, January 05, 2012 11:37 AM
To: 'Radabaugh, David (ECY)'
Cc: Lauri Anderson; Debbie Bent
Subject: FW: City of Kenmore SMP Update - Request to Ecology to hold review and extend time to approve final action

Importance: High

Dear Dave,

This office represents the City of Kenmore (City) as its City Attorney, and I am submitting this request to you on behalf of the City. The City and the Department of Ecology (Ecology) have worked diligently and cooperatively for several years to review, revise and adopt its Shoreline Management Plan Update pursuant to the Shoreline Management Act (SMP Update). As you are aware, the City submitted four alternatives to Ecology for its review by way of letter dated November 22, 2011, and we understand that Ecology is poised to review and potentially approve the City's SMP Update, with the four alternatives.

As I have discussed with you, the City desires to have its SMP Update adopted by ordinance prior to Ecology's "final action" of approving the SMP Update. Accordingly, the City respectfully requests that Ecology hold further review and potential approval until the City Council has an opportunity to consider and adopt such an ordinance at the next available regular meeting of the Council.

I have discussed the matter with Debbie Bent, Director of Planning and Community Development, and she has confirmed that Monday, February 13, 2012 is the first meeting that the Council will be able to review the SMP Update ordinance. The City Council meets on the second, third and fourth Mondays of every month, and I have learned that there is no meeting scheduled for the fifth Monday, January 30, 2012. In order to have Council review the ordinance on February 13, 2012, City Staff will be diligently working to have the ordinance and agenda packet material completed by January 13, 2012. The agenda packet material will then be mailed out to the City Council on February 3, 2012. In order to give the City Council adequate time to review the agenda packet information prior to the meeting, the City requests that Ecology hold any further review and potential approval of the SMP Update until **after February 13, 2012**.

The City appreciates Ecology's flexibility and willingness to work with the City as a partner during this process. The City is committed and eager to move forward on the final adoption of an ordinance for its SMP Update, and appreciates the additional time and opportunity to accomplish this goal.

Please feel free to call me if you would like to further discuss this email.

Sincerely,

Dawn Findlay Reitan |

INSLEE BEST DOEZIE & RYDER, P.S.
777 - 108th Avenue N.E., Suite 1900 | P.O. Box 90016 | Bellevue, WA 98009-9016
Tel + 425.450.4257 | Fax + 425.635.7720 | www.insleebest.com

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CITY OF KENMORE

WASHINGTON

ORDINANCE NO. 12-0334

AN ORDINANCE OF THE CITY OF KENMORE, WASHINGTON; REPEALING CHAPTERS 16.05, 16.10, 16.20, 16.25, 16.30, 16.35 AND CHAPTER 19.15 OF THE KENMORE MUNICIPAL CODE RELATING TO SHORELINE MANAGEMENT; ADOPTING A COMPREHENSIVE SHORELINE MASTER PROGRAM UPDATE CONSISTENT WITH THE SHORELINE MANAGEMENT ACT AND STATE GUIDELINES; ADOPTING THE SHORELINE ENVIRONMENT DESIGNATIONS MAP; RENUMBERING AND REVISING CHAPTER 16.40 OF THE KENMORE MUNICIPAL CODE RELATING TO FLOOD DAMAGE PREVENTION; AMENDING 18.55.030, 18.55.040, 18.55.120, 18.55.160, 18.55.170, 18.55.180, 18.55.210, 18.55.320, 18.55.330, 18.55.530, 19.25.020 AND 19.30.070 OF THE KENMORE MUNICIPAL CODE TO BE CONSISTENT WITH THE COMPREHENSIVE SHORELINE MASTER PROGRAM UPDATE; AMENDING EXHIBIT 2 OF ORDINANCE NO. 10-0312 TO DESIGNATE TAX PARCELS 1426049013 AND 1426049014 AS NATURAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 1972, the public adopted the Shoreline Management Act, codified at Chapter 90.58 RCW (SMA), by way of referendum to "prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines"; and

WHEREAS, RCW 90.58.080 requires local governments to develop or amend master programs for the regulation and uses of the shorelines of the state consistent with the guidelines adopted by the Washington State Department of Ecology (Ecology); and

WHEREAS, RCW 90.58.020 directs local governments developing shoreline master programs to give preference to uses in the shorelines in the following order of preference which: 1) recognize and protect the State-wide 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 shorelines; 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 deemed appropriate or necessary; and

WHEREAS, in 2003, Ecology adopted new rules, pursuant to RCW 90.58.200, which gave procedural and substantive direction to local jurisdictions for updating shoreline uses and regulations, which became effective January 17, 2004; and

WHEREAS, when it incorporated in 1998, the City of Kenmore (City) adopted King County's original 1978 Shoreline Master Program (SMP). Pursuant to RCW 90.58.080, the City is required to adopt a comprehensive master program update consistent with the criteria set forth in Ecology's guidelines (SMP Update); and

WHEREAS, three bodies of water within the City are regulated under the City's SMP, including Lake Washington, Sammamish River and Swamp Creek. Lake Washington is the only shoreline designated as a "shoreline of statewide significance" under the SMA as it is a lake with a surface acreage over 1,000 acres; and

WHEREAS, in the fall of 2007, the City began its SMP Update with the assistance of grant funding from Ecology; and

WHEREAS, the City conducted a comprehensive inventory of the ecological functions and conditions within its shoreline jurisdiction to provide a scientific foundation for application of the shoreline environment criteria and assignment of the appropriate shoreline designations; and

WHEREAS, the results of this comprehensive inventory are contained in the document entitled, Kenmore Shoreline Master Program Update Inventory and Analysis, dated February 2010 (Inventory); and

WHEREAS, consistent with the requirements of WAC 173-26-186(8)(d), the City conducted an analysis of potential cumulative impacts of reasonably foreseeable future development on shoreline ecological functions and other shoreline functions fostered by the policy goals of the SMA. The cumulative impact analysis is contained in the memorandum entitled, City of Kenmore, Shoreline Master Program Update - Cumulative Impacts, dated February 4, 2010 (Cumulative Impact Analysis); and

WHEREAS, consistent with the requirements of WAC 173-26-224(4)(c), the City conducted a public access analysis, as set forth in a January 6, 2009 Memorandum entitled, "Shoreline Public Access - Demand, Opportunities and Priorities ("Public Access Planning Memo"), which plans for an integrated shoreline public access system that identifies public needs and opportunities to provide public access; and

WHEREAS, consistent with the requirements of WAC 173-26-186(8)(c) and 173-26-201(2)(f), a document entitled City of Kenmore Shoreline Master Program Update, Restoration Plan, dated February 3, 2010 ("Restoration Plan") has been formulated so that the City's master program includes goals, policies and actions for restoration of impaired shoreline ecological functions; and

WHEREAS, the City has utilized the scientific information from the Inventory and the Cumulative Impact Analysis to draft the proposed SMP Update; and

WHEREAS, over two years, the City's Planning Commission reviewed and revised a number of documents, including: the Inventory; the Shoreline Sub-Element of the Comprehensive Plan; proposed revisions to shoreline regulations; the Restoration Plan; the Public Access Planning Memo; the Cumulative Impacts Memorandum; and a matrix of responses to public comments; and

WHEREAS, throughout the SMP Update process, the City has made a concerted effort to generate public involvement, including holding two public open houses; creating a citizen advisory committee to work with the Planning Commission; creating a comprehensive and regularly-updated web page devoted to the SMP Update; sending mailings to all shoreline property owners soliciting comments on the SMP Update and maintaining a large mailing list in order to keep interested parties informed; and

WHEREAS, on July 22, 2009, the Planning Commission presented their preliminary recommendations for the proposed SMP Update to the City Council, and

WHEREAS, the Planning Commission held a public hearing on the SMP Update and fifteen interested parties testified and a number of comments were received, including from the Muckleshoot Tribe, Friends of St. Edward State Park, Waterfront Construction, the Lakepointe development, Futurewise and a number of private individuals; and

WHEREAS, on August 25, 2009 the City's Responsible Official under the State Environmental Policy Act issued a determination of non-significance for the proposed SMP Update; and

WHEREAS, on August 25, 2009 the City provided notice to the Washington State Department of Commerce regarding the proposed amendments to the shoreline regulations and SMP Update pursuant to RCW 36.70A.106; and

WHEREAS, Ecology completed its initial review of the proposed SMP Update and submitted comments to the City. The Planning Commission and City Staff have spent several months considering the recommendations and comments received from Ecology as demonstrated in the Public Comment Matrix; and

WHEREAS, on January 20, 2010, the Planning Commission made their final recommendation to the City Council for approval of the SMP Update; and

WHEREAS, on March 29, 2010, the City Council held a public hearing on the proposed SMP Update, which was continued for additional public comment on May 27, 2010 and September 13, 2010; and

WHEREAS, on September 13, 2010, the City Council adopted Ordinance No. 10-0312 (shoreline policies) and Ordinance No. 10-0313 (shoreline regulations), which adopted the SMP Update and authorized City Staff to forward the proposed SMP Update to Ecology for approval; and

WHEREAS, Ecology reviewed the City's SMP Update and issued Findings and Conclusions for Proposed Amendments to the City of Kenmore Shoreline Master Program, dated July 25, 2011 ("Findings & Conclusions") which conditioned approval of the City's SMP Update upon the adoption of certain "required" revisions, and which also included "recommended" changes to the City's SMP Update; and

WHEREAS, the City Council has considered public testimony and comments, City staff and consultant input, and certain documents and information, including: 1) Overview of Draft Shoreline Master Program, Feb. 4, 2010 (ESA Adolfson); 2) the Inventory; 3) the Cumulative Impacts Memorandum; 4) the Shoreline Sub-Element of the Comprehensive Plan; 5) City of Kenmore Shoreline Master Program, Comprehensive Plan Policies, Shoreline Sub-Element; 6) City of Kenmore Shoreline Master Program Update, Draft Shoreline Regulations; 7) the Restoration Plan; 8) the Public Access Planning Memo; 9) Public Comment Matrix; 10) Ecology Shoreline Master Program Submittal Checklist; 11) SEPA Determination of Nonsignificance; 12) Docket Criteria Analysis; 13) Appendices to Shoreline Master Program Update; and 14) City Staff Memoranda, dated March 10, 2010, May 7, 2010, June 21, 2010, July 20, 2010, September 9, 2011, October 28, 2011, and November 18, 2011 with attachments and Ecology's Findings & Conclusions; and

WHEREAS, the City Council considered Ecology's Findings & Conclusions and the required and suggested changes at its September 26, 2011, November 14, 2011, and November 21, 2011 regular meetings, and pursuant to RCW 90.58.090(2)(e)(ii) directed that four alternative proposals be submitted to Ecology for review and inclusion within the City's SMP Update; and

WHEREAS, on November 22, 2011, the City submitted its four alternatives to Ecology, and City staff has received verbal notice from Ecology staff that a recommendation for approval of all four of the City's alternative proposals would be going forward to Ecology's director for final action; and

WHEREAS, the City Council desires to incorporate the Findings and Conclusions, as amended by the four alternatives, in the City's SMP Update by adopting this ordinance and repealing Ordinance No. 10-0313 (shoreline regulations) to avoid duplication and confusion; and

WHEREAS, the City Council has considered the Findings & Conclusions and Ecology's required changes and desires to amend Exhibit 2 of Ordinance No. 10-0312, the Shoreline Environment Designation Map, to designate Tax Parcels 1426049013 and 1426049014 as "Natural"; and

WHEREAS, the City Council finds that the SMP Update includes the necessary master program elements required by WAC 173-26-191(b), the master program basic requirements set forth in WAC 173-26-191(2) and the general master program provisions set forth in WAC 173-26-221; and

WHEREAS, RCW 36.70A.480 provides that the goals and policies contained in a local shoreline master program shall be considered an element of the City's comprehensive plan adopted under the Growth Management Act, codified at Chapter 36.70A RCW. All other portions of the

City's shoreline master program, including shoreline use regulations, are considered a part of the City's development regulations; and

WHEREAS, the City Council desires to repeal Chapters 16.05, 16.10, 16.15., 16.20, 16.25, 16.30, 16.35 and 19.15 of the KMC; and

WHEREAS, the City Council desires to renumber and revise Chapter 16.40 KMC, relating to Flood Damage Prevention as Chapter 16.90 KMC; and

WHEREAS, the City Council desire to amend KMC 18.55.030, 18.55.040, 18.55.120, 18.55.160, 18.55.170, 18.55.180, 18.55.210, 18.55.320, 18.55.330, 18.55.530, 19.25.020, and 19.30.070 in order to make those sections consistent with the City's SMP Update; and

WHEREAS, the City Council finds that the proposed SMP Update complies with the policies and mandates of the SMA and the guidelines adopted by Ecology under Chapter 173-26 WAC, and desires to adopt the proposed SMP Update; now therefore,

THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council adopts the foregoing recitals as findings for this Ordinance, which are incorporated by reference as if set forth in full.

Section 2. Repealer. The City Council repeals Chapters 16.05, 16.10, 16.15, 16.20, 16.25, 16.30, 16.35 and 19.15 of the Kenmore Municipal Code (KMC). The City Council also repeals Ordinance No. 10-0313, as adopted on September 13, 2010.

Section 3. Adoption of Comprehensive Shoreline Master Program Update - Development Regulations. The City Council adopts the City of Kenmore Shoreline Master Program Update, Shoreline Regulations, as set forth in Exhibit 1, attached hereto and incorporated by reference.

Section 4. Map Adopted. The City Council adopts Map 1, Shoreline Environment Designations Map, attached hereto as Exhibit 2, and incorporated by reference.

Section 5. Renumber & Amendment. The City Council hereby renumbers Chapter 16.40 KMC, Flood Damage Prevention, as Chapter 16.90 KMC, Flood Damage Prevention and amends the chapter as set forth in Exhibit 3, attached hereto and incorporated by reference.

Section 6. Map Amended. Exhibit 2 to Ordinance No. 10-0312, the Shoreline Environment Designations Map, is hereby amended as set forth in Exhibit 4 to this ordinance, attached hereto and incorporated by reference, to designate Tax Parcels 1426049013 and 1426049014 as Natural.

Section 7. Amendment. KMC 18.55.030 is amended to read as follows:

18.55.030 Relationship to other regulations.

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

B. The *critical area* regulations set forth in KMC 16.05.060.B shall apply to all *critical areas* located within the jurisdiction of the Kenmore Shoreline Master Program.

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

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

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

Section 8. Amendment. KMC 18.55.040 is amended to read as follows:

18.55.040 Administrative Procedures.

The administrative procedures followed during the *critical area* review process shall conform to the standards and requirements of the *city* development regulations, except that, where *critical areas* are located within the jurisdiction of the Kenmore Shoreline Master Program, administrative procedures shall conform to the standards and requirements of KMC 16.75. This shall include, but not be limited to, timing, permits, variances, exemptions, exceptions, appeals, and fees associated with applications covered by this chapter.

Section 9. Amendment. KMC 18.55.120.B is amended to read as follows:

18.55.120 Applicability.

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

compliance with this chapter includes compliance with the requirements of the shoreline master program as well as with the requirements of this chapter.

Section 10. Amendment. KMC 18.55.160.A is amended to read as follows:

18.55.160 Exception — Public agency and utility.

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

Section 11. Amendment. KMC 18.55.170.A is amended to read as follows:

18.55.170 Variances.

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

Section 12. Amendment. KMC 18.55.180.A of the Kenmore Municipal Code is amended to read as follows:

18.55.180 Exception — Reasonable use.

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

Section 13. Amendment. KMC 18.55.210 is amended to read as follows:

18.55.210 Mitigation sequencing.

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

A. Avoiding the impact altogether by not taking a certain action or parts of actions;

B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; ~~and/or~~

E. Compensating for the impact by replacing or providing substitute resources or environments; ~~and/or~~

F. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

Mitigation for individual actions may include a combination of the above measures.

Section 14. Amendment. Section KMC 18.55.320.F.2 is amended as follows:

18.55.320 Performance standards – General requirements.

F. *Wetland Buffers.*

2. Measurement of *Wetland Buffers.* *Wetland buffers* shall be measured from the *wetland edge* as delineated and marked in the field using the ~~1997~~1987 U.S. Army Corps of Engineers Wetland Delineation Manual and current Regional Supplements ~~Washington State Wetland Identification and Delineation Manual (Ecology)~~ or as may be revised in WAC 173-22-035 and WAC 173-22-080 or the most recent approved federal manual and regional supplements.

Section 15. Amendment. KMC 18.55.330.A is amended to read as follows:

18.55.330 Performance standards – Mitigation requirements.

A. *Mitigation Shall Achieve Equivalent or Greater Ecological Functions.* *Mitigation* for alterations to wetlands and buffers shall achieve equivalent or greater ecologic functions than exist in the impacted wetland and buffer. *Mitigation* plans shall be generally consistent with the Department of Ecology Guidelines found in Wetland Mitigation in Washington State – Part 2, Version 1, March 2006, Publication #06-060-011b ~~for Developing Freshwater Wetlands Mitigation Plans and Proposals, 1994, as revised.~~

Section 16. Amendment. KMC 18.55.330.G.1 is amended to read as follows:

18.55.330 Performance standards – Mitigation requirements.

G. *Mitigation Ratios.*

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

Class 1 3 to 1

Class 2 2 to 1
Class 3 1 to 1

The required acreage replacement ratios for wetlands within the jurisdiction of the Kenmore Shoreline Master Program are different from these standards. See KMC 16.65.010.C for required wetland mitigation ratios in the shoreline jurisdiction.

Section 17. Amendment. KMC 18.55.530.A.1 is amended to read as follows:

18.55.530 Performance standards — Specific habitats.

A. *Endangered, Threatened, and Sensitive Species.*

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

Section 18. Amendment. KMC 19.25.020.B and Exhibit A are amended to read as follows:

19.25.020 Classifications of land use decision processes

B. Except as provided in KMC ~~16.35.060~~16.75.060 and 19.35.160 or unless otherwise agreed to by the *applicant*, all Type 2, 3 and 4 decisions included in consolidated permit applications that would require more than one type of land use decision process may be processed and decided together, including any administrative appeals, using the highest-numbered land use decision type applicable to the project application. KMC 16.75.060 sets out the combined hearing authority for shoreline exemptions, shoreline substantial development permits, shoreline variances, and shoreline conditional use permits.

Exhibit A LAND USE DECISION TYPES		
TYPE 1 ²	Decision by <i>city manager</i> ; no administrative appeal	Building; demolition; moving; engineering; clearing and grading; sign; change of use and/or classification under KMC Title 15; accessory dwelling unit; home occupation; boundary line adjustment; right-of-way; street standards variance; adjustment under Chapter 13.35 KMC; shoreline exemption; temporary use; binding site plan; preliminary subdivision or short subdivision revision if not a substantial change; short plat alteration if not a substantial change.
TYPE 2	Decision by <i>city manager</i> ; appealable to <i>hearing examiner</i> ;	Home industry; short subdivision; preliminary short subdivision revision; short plat alteration; zoning variance; conditional use permit; shoreline substantial development permit; <u>shoreline variance; shoreline conditional use permit;</u>

	no further administrative appeal ^{1,5}	site plan review for uses allowed by zone; communication facilities permit under Chapter 18.60 KMC; approval of residential density incentives or transfer of development credits; reuse of public schools; reasonable use exceptions under KMC 18.55.180; public agency and utility exceptions under KMC 18.55.160; other critical areas exceptions, variances and decisions to require studies or to approve, condition or deny a development proposal based on Chapter 18.55 KMC.
TYPE 3	Recommendation by director <i>city manager</i> ; hearing and decision by <i>hearing examiner</i> ; appealable directly to King County superior court, pursuant to Chapter 36.70C RCW, the Land Use Petition Act, on the record	Preliminary subdivision; plat alteration; preliminary subdivision revision; special use.
TYPE 4	Recommendation by director <i>city manager</i> ; hearing and recommendation by <i>hearing examiner</i> ; decision by city council on the record	<i>Zone reclassification</i> not related to a <i>site-specific comprehensive plan land use map amendment</i> ³ ; shoreline environment redesignation; plat vacation; short plat vacation; site plan review for uses not allowed by zone pursuant to Chapter 18.105 KMC; master plans other than those required in order to obtain a <i>comprehensive plan</i> amendment or related zoning map or text amendment.
TYPE 5	Hearing and recommendation by planning commission or other city council-appointed advisory body ⁴ ; decision by city council on the record. Appealable to Growth Management Hearings Board pursuant to Chapter 36.70A	<i>Comprehensive plan</i> amendment; <i>development regulation</i> amendment; zoning map amendment related to a <i>site-specific comprehensive plan land use map amendment</i> ; master plans required in order to obtain a <i>comprehensive plan</i> amendment or related zoning map or text amendment pursuant to Chapter 18.120 KMC.

	RCW.	
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¹ All shoreline permits, including shoreline variances and conditional uses, are appealable to the State Shorelines Hearings Board and not to the *hearing examiner*.

² Type 1 land use decisions that are not categorically exempt from environmental review under Chapter 43.21C RCW (State Environmental Policy Act) shall provide a notice of application per KMC 19.25.060 and a notice of decision per KMC 19.25.090. The notice of decision may be a copy of the permit.

³ Approvals that are consistent with the *comprehensive plan* may be considered by the city council at any time. Zone *reclassifications* that are not consistent with the *comprehensive plan* land use map require a *site-specific comprehensive plan land use map amendment* and the city council's hearing, and consideration shall be considered a Type 5 land use decision and scheduled with the amendment to the *comprehensive plan* under Chapter 19.20 KMC.

⁴ If the proposal is being considered as part of the annual *docket* work program as described in Chapter 19.20 KMC. If the proposal is not part of the annual *docket*, the city council conducts the public participation process and makes the decision on the record.

⁵ Decisions on shoreline variance and shoreline conditional use permits require approval by the Department of Ecology.

Section 19. Amendment. KMC 19.30.070.A.11 is amended to read as follows:

19.30.070 Appeals.

11. Appeals of flood hazard area boundaries under KMC 16.4090.140;

Section 20. Effective Date. This Ordinance shall be published in the official newspaper of the City, and pursuant to RCW 90.58.090(7) shall take effect and be in full force fourteen days from the date of Ecology's written notice of final action to the City approving the Kenmore Shoreline Master Program.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 13TH DAY OF FEBRUARY, 2012.

CITY OF KENMORE

David Baker, Mayor

ATTEST/AUTHENTICATED:

Lynn Suskin, City Clerk

Approved as to form:

Rod P. Kaseguma, City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.: 12-0334
Date of Publication:

SHORELINE MANAGEMENT CODE – PURPOSE AND SCOPE

16.05.010 Purpose.

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

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 Sub-Element.

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 Sub-Element.

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

C. Development proposed on property adjacent to water bodies or wetlands under the jurisdiction of the Shoreline Management Act shall be evaluated in terms of the goals, and policies of the City of Kenmore Comprehensive Plan Shoreline Sub-Element.

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 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. 1.20 KMC – Code enforcement
2. 18.55.090 KMC – Jurisdiction – Critical areas (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
3. 18.55.130 KMC – Mapping (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
4. 18.55.140 KMC – Signs and fencing of critical areas (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
5. 18.55.150 KMC – Exemptions (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
6. 18.55.190 KMC – Critical areas reports – Requirements (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
7. 18.55.200 KMC – Mitigation requirements (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
8. 18.55.210 KMC – Mitigation sequencing (as adopted in Ordinance No. 12-0334)
9. 18.55.220 KMC – Mitigation plan requirements (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
10. 18.55.230 KMC – Unauthorized alterations and enforcement (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
11. 18.55.250 KMC – Notice on title (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
12. 18.55.260 KMC – Critical area tracts (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
13. 18.55.270 KMC – Building setbacks (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
14. 18.55.280 KMC – Bonds to ensure mitigation, maintenance, and monitoring (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)

15. 18.55.290 KMC – Critical area inspections (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
16. 18.55.300 KMC – Designation and rating of wetlands (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
17. 18.55.320 KMC – Wetland performance standards – general requirements (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference, and as amended through Ordinance No. 12-0334)
18. 18.55.330 KMC – Wetland performance standards – mitigation requirements (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference, and amended through Ordinance No. 12-0334)
19. 18.55.400 KMC – Designation and rating of streams (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
20. 18.55.420 KMC – Streams performance standards – general requirements (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
21. 18.55.430 KMC – Streams performance standards – mitigation requirements (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
22. 18.55.500 KMC – Designation of fish and wildlife habitats of importance (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
23. 18.55.520 KMC – Fish and wildlife habitat performance standards – general (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
24. 18.55.530 KMC – Fish and wildlife habitat performance standards – mitigation requirements (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference, and amended through Ordinance No. 12-0334)
25. 18.55.600 KMC – Geologically hazardous areas – Purpose (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
26. 18.55.610 KMC – Designation of geologically hazardous areas (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
27. 18.55.620 KMC – Designation of specific hazard areas (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
28. 18.55.640 KMC – Geologically hazardous areas performance standards – General requirements (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
29. 18.55.650 KMC – Geologically hazardous areas performance standards – Specific areas (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
30. 18.55.700 KMC – Flood hazard areas (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)

31. 18.55.710 KMC – Flood fringe – Development standards and permitted alterations (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
32. 18.55.720 KMC – Zero-rise floodway – Development standards and permitted alterations (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
33. 18.55.730 KMC – FEMA floodway – Development standards and permitted alterations (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
34. 18.55.740 KMC – Flood hazard areas – Certification by engineer or surveyor (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)
35. 18.55.750 KMC – Channel relocation and stream meander areas requirements (Ordinance No. 06-0244, as codified and set forth in Appendix 1, attached and incorporated by reference)

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.

Chapter 16.10 DEFINITIONS

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 the KMC Titles 16 and 18.

16.10.020 Applicant.

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

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.

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 aquatic resource practices 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 waterbody, formation by tidally influenced geo-hydraulic 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.

16.10.070 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.

16.10.090 Breakwater.

"Breakwater" means an off-shore 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 are therefore subject to risk due to stream bank destabilization, rapid stream incision, stream bank erosion, and shifts in the location of stream channels. Channel relocation and stream meander areas as defined at KMC 18.55.750 are channel migration zones.

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 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.

16.10.130 Development.

“Development” is defined in Chapter 90.58 RCW as now or hereafter amended.

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 floating upon water bodies to provide moorage for pleasure craft or landing for water-dependent recreation including, but not limited to floats, swim floats, float plane moorages, and water ski jumps. Excluded are launch ramps.

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.

16.10.180 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 habitat area of importance.

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

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

Swamp Creek, the Sammamish River, and Lake Washington are all fish and wildlife habitat areas of importance.

16.10.190 Float.

“Float” means a structure or device which is not a breakwater and which is moored, anchored, or otherwise secured in the waters of the city of Kenmore and which is not connected to the shoreline.

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.

16.10.210 Floodplain.

“Floodplain” is synonymous with one hundred (100) -year floodplain and means the land area that may be inundated by the base flood of a river or stream.

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 flood waters 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.

16.10.230 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” 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.

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, 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.

16.10.290 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.

16.10.310 No net loss.

Per WAC 173-26- 201(2)(c), the concept of “no net loss” of shoreline ecological functions means that the Kenmore Shoreline Master Program provisions shall, to the greatest extent feasible, protect existing shoreline ecological processes and functions and avoid new adverse impacts to ecological processes and functions. The term “net” as used herein, recognizes that any development has potential for short-term or long-term impacts and that through application of appropriate development standards, avoidance of impacts and use of mitigation measures, those impacts will not diminish the shoreline resources and values as they currently exist.

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.

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.

16.10.370 Port.

“Port” means public or private facilities for transfer of cargo or passengers from water-born 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.

16.10.380 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 KMC 16.75

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 RCW 90.58 and WAC 173-26, against taking the action.

16.10.455 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.

16.10.450 Shorelands.

“Shorelands” or “Shoreland Areas” means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams and lakes that are subject to the provisions of RCW 90.58.

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 Sub-Element 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 RCW chapter 90.58;
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 twenty cubic feet per second mean annual flow, including the entire water body waterward from the ordinary high water mark from its centerline or point, all water below the surface and associated shorelands. Kenmore shorelines are shown on the adopted map entitled Kenmore Shoreline Environment Designations. 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.

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, non-regional stormwater management facility, and vector 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.

16.10.600 Water-related use.

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

- A. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- B. The use provides a necessary service supportive of the water-dependent uses, and the proximity of the use to its customers makes its services less expensive and/or more convenient.

16.10.610 Water-enjoyment use.

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

16.10.620 Water-oriented use.

“Water-oriented use” means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

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 ground water 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

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.

16.15.020 Names of shoreline environment designations.

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

- A. Downtown Waterfront Environment
- B. Shoreline Residential Environment
- C. Urban Conservancy Environment
- D. Natural Environment
- E. Aquatic Environment

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.

Chapter 16.20 DOWNTOWN WATERFRONT ENVIRONMENT

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 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

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

16.30.010 Purpose.

The purpose of the Urban Conservancy Environment is to protect and restore ecological functions of open space, streams, wetlands, and floodplains, including areas below the ordinary high water mark in Swamp Creek, while allowing a variety of compatible uses.

16.30.020 Designation criteria.

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

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

Chapter 16.35 NATURAL ENVIRONMENT

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

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

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 ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
2. Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.
3. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage, and vessel repair facilities.
4. The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected. The use of chemicals to control invasive aquatic weeds is prohibited, except that milfoil may be removed using chemicals, provided that the chemicals are applied by a licensed pesticide applicator and approved for aquatic use.
5. All shoreline developments and uses shall manage increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shoreline properties and features are not adversely affected. Control measures may include, but are not limited to, permeable surfacing, dikes, catch basins, settling ponds, interceptor drains and planted buffers.
6. All shoreline developments and uses shall control erosion during project construction and operation.
7. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance of, or minimize adverse impacts to protect fish and wildlife habitat conservation areas, including, but not limited to, spawning, nesting, rearing and habitat

areas, and migratory routes. Where avoidance of adverse impacts is not practicable, the director may require that mitigation measures to protect species and habitat functions be developed in consultation with state resource management agencies and federally recognized tribes.

8. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, erosion and accretion.
9. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.
10. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.
11. All shoreline development shall be located, constructed and operated so as to protect public health, safety and welfare.
12. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.
13. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.
14. Navigation channels shall be kept free of hazardous or obstructing development or uses.
15. Historic properties, including historic buildings, sites, objects, districts and landscapes, prehistoric and historic archaeological resources, and traditional cultural places, shall be protected within shoreline environments as follows:
 - a. Known historic properties:
 - i. Known historic properties inventoried by King County and Washington Department of Archaeology and Historic Preservation are subject to the procedures delineated in KMC 2.20. Disturbance of known archaeological sites is also subject to state regulations, including chapter 27.44 RCW, chapter 27.53 RCW, and chapter 68.80 RCW;
 - ii. If a known archaeological site or traditional cultural place is affected by a development proposal, the director shall require a site inspection or

evaluation by a professional archaeologist and inform and consult with the Washington State Department of Archaeology and Historic Preservation and any concerned Native American tribes. To the extent feasible, the director shall coordinate county and state required permitting and compliance procedures and requirements to avoid substantial duplication of effort by permit applicants; and

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

b. Inadvertent Discovery:

- i. Consistent with the definitions and requirements contained in chapter 27.44 RCW, chapter 27.53 RCW, and chapter 68.80 RCW, whenever potentially significant historic properties, or archaeological artifacts, are discovered in the process of development on shorelines, work on that portion of the development site shall be stopped immediately and the find reported as soon as possible to the director; and if an archaeological site or artifacts have been discovered, the Washington State Department of Archaeology and Historic Preservation, any concerned Native American tribes and other appropriate agencies;
- ii. The director shall require that a historic property assessment be conducted immediately by a professional archaeologist, ethnographer or historic preservation professional, as applicable, in consultation with state and tribal officials as appropriate, to determine the significance of the discovery and the extent of damage that may have occurred to the resource. The historic property assessment shall be provided to the director, and, if an archaeological site, archaeological artifacts or a traditional cultural place have been discovered, the Washington State Department of Archaeology and Historic Preservation, and any concerned Native American tribes to determine the significance of the discovery in accordance with 27.53 RCW and WAC 25-48; and
- iii. Upon receipt of a positive determination of a property's significance, or if available information suggests that a negative determination is erroneous, the director may require that a historic property management plan be prepared by a qualified professional archaeologist or other appropriate

professional if such action is reasonable and necessary to implement related program objectives.

c. **Public Access to Historic Properties:**

- i. If a private or publicly owned historic property is identified, public access shall be encouraged as appropriate for purposes of public education, provided that:
 - a) the type or level of public access is consistent with the long term protection of both historic resource values and shoreline ecological functions; and
 - b) an access management plan is developed in accordance with development site- and resource-specific conditions to address physical protection of the resource, hours of operation, interpretive or directional signage, lighting, pedestrian access, traffic, and parking, as appropriate, in consultation with the director and, if an archaeological site, archaeological artifacts or a traditional cultural place have been discovered, the Washington State Department of Archaeology and Historic Preservation, any concerned Native American tribes, or other agencies, as appropriate; and
- ii. 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.

Chapter 16.50 SHORELINE USES.

16.50.010 General shoreline uses.

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

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

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

D. Uses existing as of the effective date of this ordinance that do not conform to these regulations may be continued subject to the provisions of this chapter.

16.50.020 Interpretation of shoreline use table.

A. The shoreline use table in KMC 16.50.030 indicates whether a specific use is allowed within each of the shoreline environments and whether it is permitted outright or allowed only as a shoreline conditional use. The process through which a use or development may be permitted is defined under procedures in KMC 16.75.

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

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

with the corresponding number immediately following the table, and only if KMC Title 18 allows the use.

16.50.030 Shoreline use table and conditions.

A. Shoreline use table.

KEY P – Permitted Use C – Shoreline Conditional Use	DOWNTOWN WATERFRONT	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
Aquaculture					
Aquaculture uses	X	X	X	X	C1
Commercial Development					
General services	P2, X2	X	P2,3, X2	X	C2
Business services	P2, X2	X	P2,3, X2	X	C2
Retail	P2, X2	X	P2,3, X2	X	C2
Mining	X	X	X	X	X
Principal use parking	X	X	X	X	X
Government Services					
Government services	P4	P4	P4	P4	C4
Manufacturing					
Manufacturing uses	P2	X	X	X	X
Park/Recreation					
Recreational/cultural	P5	P6	P6	P7	C5
Marinas (recreational boat moorage)	P8	X	P	X	P
Public boat launch	P	X	P, C9	X	P
Golf course	X	X	C	X	X

Residential Development

Dwelling units, single detached	X	P	P	C	P10
Dwelling, multiple family	P2	P	P2	X	X
Mobile home park	X	C	X	X	X
Group residences	P2	P	P	C	X
Accessory uses	P	P	P	C	X
Temporary lodging	P2	X	X	X	X

Regional Land Uses

Airport/heliport or helistop	C, X17	X	X	X	C, X17
Ferry Terminal	C	X	X	X	C
Highway and street, except for in-water uses	C11	C11	C11	C11	C11
Commuter parking	C17	X	X	X	X
Wastewater treatment facility and municipal water production, except for in-water uses	C8, 12	C8, 12	X	X	X
Regional stormwater management facilities	P13	P13	P13	P13	X

Utilities

Utility facility, except for in-water uses	P13	P13	P13	P13	X
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In-Water Structural Uses

In-water wastewater treatment facility, in-water municipal water production facility	X	C 12	C 12	C 12	C 12
In-water utility facilities	X	C13	C13	C13	C13
In-water and over water highway and street facilities	X	C11, 14	C11, 14	C11, 14	C11, 14
In-water fish and wildlife management, except aquaculture	X	C	C	C	C

Signs

Signs

P15

P15

P15

P15

P15

B. Shoreline Use Criteria(Footnotes to Shoreline Use Table KMC 16.50.030.A)

1. Aquaculture may be allowed only in Lake Washington and only under the following conditions:
 - a. Aquaculture operations are located at least 500 feet from the Shoreline Residential and Downtown Waterfront environments.
 - b. Aquaculture operations waterward of the Natural Environment and Urban Conservancy Environment are limited to activities that do not require structures, facilities or mechanized harvest practices.
2. Water-dependent and water-related commercial and manufacturing uses shall be permitted. Public access improvements consistent with this chapter are required for all commercial and manufacturing uses, unless precluded by public safety considerations. Non-water dependent and non-water related residential, commercial, and manufacturing uses shall be permitted only if the use meets the standards of sections a, b, c and d below:
 - a. The development is:
 - i. Part of a mixed-use development that includes a water-dependent use and in which at least fifty percent of the land area within the shoreline jurisdiction on the project site is in a water-dependent use or water-related use (including uses accessory to a water dependent use that are fully incidental and subordinate to the water-dependent use), dedicated public access, or substantial shoreline habitat enhancement consistent with KMC 16.60.010; or
 - ii. A new or expanding development in a commercial zone along the Swamp Creek shoreline north of Northeast Bothell Way, where the existing development does not conform with current stream buffer provisions of the Kenmore SMP and where the proposed development would substantially increase the width and enhance the habitat quality of the buffer along Swamp Creek;
 - b. The non-water oriented uses are located on land; and
 - c. The development provides a significant public benefit to help achieve any of the following shoreline element goals:
 - i. economic development for uses that are water-dependent;
 - ii. public access;

- iii. water-oriented recreation;
 - iv. multimodal, water-dependent transportation circulation;
 - v. conservation or restoration of critical areas, scenic vistas, or fish and wildlife habitat; or
 - vi. preservation of historic properties.
- d. The development does not include the following uses, which are prohibited in the shoreline: funeral home/crematory; veterinary clinic; cemetery/columbarium/mausoleum; automotive repair; automotive services; stable/kennel/cattery; hospital; outdoor advertising service; miscellaneous equipment rental; automotive rental and leasing; gasoline service stations; fuel dealers; auction houses; livestock sales; amusement park; drive-in theater; public agency or utility yard; and propane/compressed natural gas/liquefied natural gas storage tanks serving multiple lots or uses from which fuel is distributed directly to individual users.
3. New commercial uses may be permitted only if allowed in the underlying zoning, and if public access is provided and the project includes ecological enhancement consistent with KMC 16.60.010. Existing non-water-dependent commercial uses may be expanded provided the expansion complies with all development standards and the project includes ecological enhancement consistent with KMC 16.60.010.
 4. Only the water-dependent portion of the use shall be allowed in the shoreline environment, except as provided in this section for utility uses.
 5. In Downtown Waterfront and Aquatic environments, water-oriented recreational uses including parks and public access trails and facilities may be allowed, provided that in the Downtown Waterfront minor non-water-oriented accessory uses such as children's play equipment, picnic tables, or outdoor exercise course equipment may also be allowed if they meet the other requirements of this chapter. All other recreational uses shall be prohibited.
 6. In Urban Conservancy and Shoreline Residential environments, parks and trails shall be allowed. All other recreational uses shall be prohibited.
 7. In the Natural environment, water-oriented passive and low-impact recreational uses shall be allowed. All other recreational uses shall be prohibited.
 8. Wastewater treatment facilities, and municipal water production uses, except for in-water uses, shall be allowed only on Lake Washington shorelines. The listed wastewater treatment facilities, municipal water production facilities, and marinas are prohibited on shorelines of the Sammamish River and Swamp Creek.

9. A boat launch that accommodates motorized vehicles for launching vessels is a conditional use in the Urban Conservancy environment. Facilities for hand launching of non-motorized vessels may be allowed as permitted uses.
10. New over-water residences are prohibited except for live-aboards. They may be allowed provided that:
 - a. They are for single-family use only;
 - b. They are located in a marina that provides shower and toilet facilities on land and there are no sewage discharges to the water;
 - c. Live-aboards do not exceed 10 percent of the total slips in the marina;
 - d. They are owner-occupied vessels; and
 - e. There are on-shore support services in proximity to the live-aboards.
11. New highway and street construction is allowed only if:
 - a. There is no feasible alternate location;
 - b. Pedestrian, bicycle and public transport needs are addressed; and
 - c. When located in the Natural environment, the use is low-intensity transportation infrastructure; parking facilities are prohibited in the Natural environment unless supporting a water-dependent use.
12. The water-dependent and in-water portions of wastewater treatment and municipal water production facilities may be allowed as a conditional use.
13. Utility facilities may be located within the shoreline jurisdiction if there is no feasible alternate location, the alternative would result in unreasonable and disproportionate cost, or the facility is necessary to serve adjacent shoreline uses.
14. Highway and street infrastructure that must be located in water or over water, such as bridges and bridge supports, may be permitted provided that the priorities of the Kenmore Shoreline Restoration Plan are considered in designing mitigation for impacts from the project.
15. Signs may be permitted subject to the provisions of the underlying zoning and provided:
 - a. Signs shall not be erected nor painted on trees, rocks or other natural features.
 - b. Glare from artificial lighting of signs shall be shielded or directed away from adjacent properties and the water.

- c. Signs waterward of the ordinary high water mark adjacent to the Downtown Waterfront environment shall be permitted only to the extent necessary for the operation of a permitted water-dependent use provided no such sign shall be larger than 5 square feet.
 - d. In the Shoreline Residential, Urban Conservancy and Natural environments, signs are not allowed except for signs of not more than 5 square feet within public parks or trails.
 - e. Signs to protect public safety or prevent trespass may be allowed and should be limited in size and number to the maximum extent practical.
16. Commuter parking may only be allowed if it is designed to serve a passenger ferry system.
17. Helistops and heliports are prohibited in all environments.

C. Accessory uses.

- 1. Any principal use permitted in a specific shoreline environment either outright, or as a special use or conditional use shall also be permitted as an accessory use outright or as a conditional use.
- 2. Uses prohibited as principal uses but customarily incidental to a use permitted in a shoreline environment may be permitted as accessory uses only if clearly incidental and necessary for the operation of a permitted principal use unless expressly permitted or prohibited as accessory uses. Examples of accessory uses include parking, offices, and outdoor storage areas. For purposes of this section, landfill, water-based airports, heliports and helistops shall not be considered to be accessory to a principal use and shall only be permitted as provided in the applicable shoreline environment.
- 3. Unless specifically stated otherwise in the regulations for the applicable environment, accessory uses that are non-water-dependent and non-water-related, even if accessory to water-dependent or water-related uses, shall be permitted over water according to subsection A above only if either:
 - a. The over-water location is necessary for the operation of the water-dependent or water-related use; or
 - b. The lot has a depth of less than fifty (50) feet of dry land.
- 4. Parking shall not be permitted over water unless it is accessory to a water-dependent or water-related use located on a lot with a depth of less than fifty (50) feet of dry land and the Director determines that adequate on-site or off-site dry land parking within eight hundred (800) feet is not reasonably available.

5. Piers, floats, pilings, breakwaters, drydocks and similar accessory structures for moorage shall be permitted as accessory to permitted uses subject to the development standards unless specifically prohibited in the applicable shoreline environment.
6. Accessory uses shall be located on the same lot as the principal use; provided that when the accessory use is also permitted as a principal use in the shoreline environment applicable to an adjacent lot, the accessory use may be located on that adjacent lot.

16.50.040 Aquaculture.

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

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

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

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

D. Aquaculture facilities should be designed and located so as not to spread disease to native aquatic life, establish new nonnative species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.

16.50.050 Public boat launching facilities and marinas.

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

- A. The facility shall be designed and operated so that there is no net loss of ecological function in the shoreline. Where the facility is developed in conjunction with restoration of like habitat areas, improvements in one area may be applied to mitigate impacts that would result from new facilities;
- B. The streets serving the proposed facility must be adequate to accommodate traffic generated by such a facility safely and conveniently;
- C. The facility shall provide adequate parking in accordance with underlying zoning requirements. Long-term parking areas shall be located away from the water. Short-term loading areas, however, may be located near berthing areas;
- D. The marina shall be sited and designed to protect rights of navigation;

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

16.50.060 Public Access.

Public access shall be required for public projects and development on public lands (KMC 16.45.010.B.16), commercial and manufacturing uses (KMC 16.50.030.B2), boating facilities and marinas (KMC 16.50.050), multifamily development (KMC 16.50.090.A.1), and land divisions of more than four lots (KMC 16.50.090.A.2). For development on private property, public access shall be required when such development would either generate or increase demand for public access and/or would impair existing legal access opportunities or rights.

A. Where public access is required, it shall:

1. Connect to other public and private public access and recreation facilities on adjacent parcels along Lake Washington and the Sammamish River shorelines whenever feasible;
2. Be sited to ensure public safety;
3. Be open to the general public and accessible directly from a public right-of-way or by an easement granted to the City for public access;
4. Enhance access and enjoyment of the shoreline and provide features in scale with the development such as, but not limited to:
 - a. View points;

- b. Places to congregate in proportion to the scale of the development;
 - c. Benches and picnic tables;
 - d. Beach or water access for boats; and
 - e. Pathways for pedestrians and bicycles.
- B. Where public access is required, the area dedicated and improved for public access shall be roughly proportional to the scale and character of the proposed development and its impacts.
- C. Where public access is required, the Director shall prepare written findings demonstrating that the conditions imposed are consistent with the principles of nexus and rough proportionality, the Act and all relevant constitutional and other legal limits on regulation of private property.
- D. Public access improvements shall be designed to be compatible with the purpose and intent of the shoreline environment in which they are constructed.
- E. Trails and other public access improvements are subject to the standards for recreational uses in section KMC 16.65.020 and the vegetation management standards in KMC 16.60.020.B.
- F. The provisions of this section do not apply to the following:
- 1. Short plats of four or fewer lots;
 - 2. Where public access is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment; or
 - 3. Where constitutional or other legal limitations apply.

16.50.070 Recreation.

- A. Recreational development in all environments must meet the following standards:
- 1. The construction of swimming facilities, docks, piers, moorages, buoys, floats, and launching facilities waterward of the ordinary high water mark shall be governed by the regulations relating to docks, piers, moorage, buoys, floats, or launching facility construction in KMC 16.55.050.
 - 2. Swimming areas shall be separated from boat launch areas and marinas, to the maximum extent practical.
 - 3. New or expanded swimming facilities shall only be permitted if there is an ongoing water quality testing program guided by a monitoring plan approved by the director to ensure public safety.

4. Public access trails within the shoreline shall be regulated by the provisions of KMC 16.50.060.

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

1. Vehicular access, parking and restrooms should be located outside the shoreline jurisdiction; if infeasible to locate outside of the shoreline jurisdiction, such facilities shall be located as far from the shoreline as is feasible;
2. Trails should be designed primarily for pedestrian access, including access by wheelchair where appropriate, and should be no larger than is necessary to accommodate expected pedestrian traffic;
3. Removal of vegetation for recreational uses shall be the minimum necessary to provide pedestrian access and limited visual access to the shoreline;
4. Public contact with unique and fragile areas shall be permitted where possible without destroying the natural character of the area; and
5. Viewing, studying, and recording water and nature may be accommodated by platforms, benches or shelters, consistent with public safety and security.

16.50.080 Utility facilities. The following standards apply to utility uses within the shoreline environment:

A. Stormwater and sewage outfalls may be permitted in shoreline environments if upland treatment and infiltration to groundwater, streams or wetlands is not feasible per WAC 173-26-020 and there is no impact on salmon migratory habitat;

B. Water intakes shall not be permitted near fish spawning, migratory, or rearing areas.

C. Water intakes shall comply with Washington Department Fish and Wildlife fish screening criteria, and to the maximum extent practical, intakes shall be placed at least thirty (30) feet waterward of the ordinary high water mark;

D. Cable crossings for telecommunications and power lines, and pipelines for oil, gas, water and other utilities shall:

1. Use the best available technology to protect health, safety, and the environment;
2. Be routed through sites that are already free of vegetation, such as existing roadways, or attached to existing bridges, to the greatest extent feasible;
3. Avoid critical aquatic habitat to the greatest extent feasible;

4. If crossing beneath a streambed, utilities shall be designed to avoid streambed mobilization and adverse impacts on groundwater flow; be placed in a sleeve or conduit that allows replacement without need for additional excavation, and return grades to existing or better condition that provides for normal floodwater flow; and
5. Provide mitigation for impacts to shoreline ecological functions.

16.50.085 Transportation Uses

- A. Non-water-dependent transportation uses shall be located as far landward as possible.
- B. Bridges, when necessary, should span open water and floodways.
- C. Roadways and bridges should be designed to avoid placement of fill or structures that would restrict floodplain capacity or limit channel migration. If transportation facilities are anticipated to impact floodplains or channel migration zones; mitigation sequencing as specified in KMC 18.55 shall be employed to avoid and mitigate for impacts.
- D. Construction of private bridges should be minimized, and shared access should be required whenever feasible, including when subdivision would create new lots requiring access by bridge.
- E. Transportation uses shall employ mitigation sequencing specified in KMC 18.55 to avoid and mitigate for impacts to critical areas.
- F. Lighting from parking areas shall be screened from illuminating fish and wildlife habitat areas and their buffers, provided that lighting necessary for safe operation of a permitted water-dependent use may be allowed, but should be screened to the extent possible from illuminating fish and wildlife habitat areas and their buffers.

16.50.090 Residential Uses

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

3. Accessory structures shall be sited to preserve visual access to the shoreline from adjacent properties and public rights-of-way to the maximum extent practical;
4. Non-water-dependent accessory structures and facilities such as sheds, gazebos, swimming pools, and driveways shall not be located in vegetation conservation areas described in KMC 16.60.
5. Foot ramps, stairs, and paths to a dock or beach may be allowed in the vegetation conservation areas described in KMC 16.60, but shall be limited to the minimum necessary to provide pedestrian access.
6. Private boat ramps serving a single residence shall not be located in vegetation conservation areas described in KMC 16.60.

16.50.100 Channel Migration Zone on Swamp Creek

A. The Channel Migration Zone shall include:

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

B. Within the Channel Migration Zone:

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

C. A project proponent may have a channel migration zone study completed by a qualified professional hydrogeologist to be reviewed by the City. If the study demonstrates that the entirety of the development property is outside of the channel migration zone, then this section will not further apply to the project.

Chapter 16.55 SHORELINE MODIFICATIONS.

16.55.010 General shoreline modifications.

The shoreline modifications section shall not be used to authorize a shoreline modification that is not allowed by the underlying zoning, but may add additional restrictions or conditions or prohibit specific modifications within the shoreline jurisdiction. All shoreline modifications in the shoreline jurisdiction must comply with all relevant City code provisions and with the Kenmore Shoreline Master Program.

16.55.020 Interpretation of shoreline modifications table.

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

- A. If the letter "P" appears in the box at the intersection of the column and the row, the modification may be allowed within the shoreline environment only if the underlying zoning allows the modification.
- B. If the letter "C" appears in the box at the intersection of the column and the row, the modification may be allowed within the shoreline environment subject to the shoreline conditional use review procedures specified in KMC 16.75, and only if the underlying zoning allows the modification.
- C. If a number appears in the box at the intersection of the column and the row, the modification may be allowed subject to the appropriate review process indicated in this section, the specific development conditions indicated with the corresponding number immediately following the table, and only if the underlying zoning allows the modification. If more than one number appears at the intersection of the column and row, both numbers apply.
- D. If more than one letter-number combination appears in the box at the intersection of the column and the row, the modification is allowed within that shoreline environment subject to different sets of limitations or conditions depending on the review process indicated by the letter, the specific development conditions indicated in the development condition with the corresponding number in KMC 16.55.030.B, and only if the underlying zoning allows the modification.

16.55.030 Shoreline modifications table and conditions.

A. Shoreline modifications table.

KEY P - Permitted Modification C – Shoreline Conditional Use Required Shoreline modifications are allowed only if the underlying zoning allows the modification.	DOWNTOWN WATERFRONT	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
Shoreline stabilization					
Shoreline stabilization, not including flood protection facilities	P1	P1	C1	C1	C1, P1
Repair or maintenance of shoreline stabilization facilities	P2	P2	P2	P2	P2
Flood protection facilities	P3	P3	P3	C3	P3
Piers and docks					
Docks, piers, moorage, buoys, floats or launching facilities	P4	P4	C4	C4	C4, P4
Fill					
Filling	P5, C5	P5, C5	P5, C5	C5	C5
Breakwaters, jetties, groins, and weirs					
Breakwaters, jetties, groins and weirs	C6	C6	C6	C6	C6
Grading and dredging					
Grading, dredging, dredge material disposal	P5, C5	P5, C5	P5, C5	C5	C5
Shoreline habitat and natural systems enhancement projects					

KEY P - Permitted Modification C – Shoreline Conditional Use Required Shoreline modifications are allowed only if the underlying zoning allows the modification.	DOWNTOWN WATERFRONT	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
Habitat and natural systems enhancement projects	P7	P7	P7	P7	P7

B. Development conditions (Footnotes for the Shoreline Modifications Table at KMC 16.55.030.A).

1. Shoreline stabilization, including bulkheads, shall be permitted only when it has been demonstrated that stabilization is necessary to protect existing legally established primary structures, public improvements, proposed or existing water-dependent development, or projects for the restoration of ecological functions or hazardous substance remediation, and must meet the standards in KMC 16.55.040. In the Aquatic environment, stabilization requires conditional use approval, unless located adjacent to a Downtown Waterfront or Shoreline Residential environment.
2. An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves. Normal maintenance and repair is allowed provided that all work is conducted in a manner that does not cause a net loss of ecological functions.
3. Flood protection facilities must be consistent with the standards in KMC 16.90 Flood Damage Prevention, KMC 18.55, and the Integrated Stream Protection Guidelines (Washington departments of Fish and Wildlife, Ecology, and Transportation, 2003).
4. Docks, piers, moorage, buoys, floats or launching facilities shall meet the standards in KMC 16.55.050 and are allowed only for:
 - a. Water dependent uses
 - b. Public access
 - c. Single detached residential units
 - d. Joint use facilities for multiple family dwelling unit developments, or
 - e. Water-related or water-enjoyment uses only as part of a mixed-use development and only if auxiliary to and in support of a water-dependent use.

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

5. Excavation, dredging and filling must meet the standards in KMC 16.55.060. Fill placed waterward of the ordinary high water mark for any use except ecological restoration or for the maintenance and repair of flood protection facilities requires a conditional use permit. Disposal of dredged material within shorelands or wetlands within the shoreline jurisdiction requires a conditional use permit.
6. Breakwaters, jetties, groins and weirs are only allowed where necessary to support water dependent uses, public access, approved shoreline stabilization, or other public uses, as determined by the director. Groins are only allowed as part of a restoration project sponsored or cosponsored by a public agency that has natural resource management as a primary function.
7. Shoreline habitat and natural systems enhancement projects may include shoreline modifications of vegetation, removal of non-native or invasive plants, and shoreline stabilization, including the installation of large woody debris, dredging and filling, provided the primary purpose is clearly restoration of the natural character and ecological functions of the shoreline. Mitigation actions identified through biological assessments required by the NOAA Fisheries Service and applied to flood hazard mitigation projects may include shoreline modifications of vegetation, removal of non-native or invasive plants, and shoreline stabilization, including the installation of large woody debris, dredging and filling.

16.55.040 Shoreline stabilization.

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

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

1. A geotechnical analysis demonstrates that erosion from waves or currents is imminently threatening and that damage is expected to occur within three years if the shoreline stabilization is not constructed;
2. The erosion rate exceeds that which would normally occur in a natural condition;
3. The erosion is not caused by upland conditions on the project site;
4. The proposed shoreline stabilization is the least hardened solution that is feasible to protect the structures or improvements, including consideration of non-structural alternatives such as slope drainage systems, vegetative growth stabilization, and gravel berms;

5. The proposal is the minimum necessary to protect existing legally established primary structures, new non-water-dependent development, existing water-dependent development or projects for the restoration of ecological functions or hazardous substance remediation;
6. The proposed shoreline stabilization does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions; and
7. Adequate mitigation measures that maintain existing shoreline processes and critical fish and wildlife habitat will be provided that ensure no net loss or function of riparian habitat.

B. Shoreline stabilization to replace existing shoreline stabilization shall be placed landward of any existing shoreline stabilization, except that it may be placed waterward directly abutting the old structure only in cases where the existing bulkhead was installed prior to January 1, 1992 and removal of the old structure would result in greater impact on ecological functions.

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

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

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

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

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

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

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

J. Shoreline stabilization shall comply with the Integrated Stream Protection Guidelines (Washington departments of Fish and Wildlife, Ecology, and Transportation, 2003) and shall be designed to allow for appropriate public access to the shoreline.

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

A. Any dock, pier, moorage, buoy, float or launching facility authorized by this chapter shall not interfere with navigation.

B. Any dock, pier, moorage, buoy, float or launching facility authorized by this chapter shall be subject to the following requirements:

1. Docks, piers, moorage, buoys, floats or launching facilities shall not exceed the minimum size necessary to serve the use for which they are designed (see 16.55.030.B.4).
2. Docks, piers, moorage, buoys, floats or launching facilities serving more than four single family residences must also meet the standards in KMC 16.50.050.
3. Only joint use boat lift, dock, pier, moorage, buoys, float or launching facilities may be permitted for multiple family dwelling unit development proposals.
4. Only one boat lift, dock, pier, moorage, buoy, float and launching facility may be permitted for each parcel developed with a single detached residential unit and only if the applicant demonstrates there is no other feasible option for shared use facilities. However, installation or retention of additional watercraft lifts beyond one, without a canopy, at a single residential use waterfront structure is allowed. A maximum of three lifts are allowed at a single residential use overwater structure. However, only two lifts can be ground-based, all other lift(s) must be floating or suspended lift(s).
5. Only joint use docks or piers are allowed on lots with less than 50 feet of waterfront except when lots abutting both sides of the subject lot already have a dock or pier.
6. The only structures permitted in the first 30 feet waterward of the ordinary high water mark are piers and ramps. All floats and ells must be at least 30 feet waterward of the ordinary high water mark.
7. No skirting is allowed on any structure.
8. Surface coverage (includes all overwater portions of the floats, ramps, and ells) shall be limited as follows:
 - a. Moorage facilities serving only one residential waterfront lot shall not exceed 480 square feet;
 - b. Moorage facilities serving two residential waterfront lots shall not exceed 700 feet; and
 - c. Moorage facilities serving three or more residential waterfront lots shall not exceed 1,000 square feet.
9. To protect anadromous salmon habitat, the following shall apply:
 - a. Docks with configurations that do not include any or all of the following elements shall be subject to the overall length and square footage limitations of this section

and no portion of the dock shall exceed four feet in width, unless allowed in this subsection;

- b. Piers shall not exceed four feet wide and shall be fully grated;
 - c. Ramps shall not exceed three feet wide and shall be fully grated;
 - d. Ells are allowed only over water with depths of nine feet or greater at the landward end of the ell; ells may be up to 6 feet wide by 20 feet long with a 2-foot-wide strip of grating down the center; or ells may be up to 6 feet wide by 26 feet long with grating over the entire ell;
 - e. Floats are allowed only over water with depths of 10 feet or greater at the landward end of the float; and floats may be up to 6 feet wide by 20 feet long with a 2-foot-wide strip of grating down the center;
 - f. In no case may any moorage facility extend more than 150 feet waterward of the ordinary high water mark;
 - g. The first (nearest shore) piling shall be steel, 4-inch piling and at least 18 feet waterward of the ordinary high water mark. Piling sets beyond the first are not required to be steel, shall be spaced at least 18 feet apart and shall not be greater than 12 inches in diameter;
 - h. Piles shall not be treated with pentachlorophenol, creosote, chromated copper arsenate or comparably toxic compounds. If ammoniacal copper zinc arsenate pilings are proposed, the applicant will meet all of the Best Management Practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers; and
 - i. When steel piles are installed, approved sound attenuation measures must be used.
10. Existing habitat features (e.g., large and small woody debris, substrate material, etc.) shall be retained and new or expanded moorage facilities placed to avoid disturbance of such features.
11. Invasive aquatic weeds may be removed with nonchemical means only, except that milfoil may be removed using chemicals provided that the chemicals are applied by a licensed applicator and approved for aquatic use.
12. In order to mitigate the impacts of new or expanded commercial moorage facilities, the applicant shall plant emergent vegetation (if site-appropriate) and a buffer of vegetation a minimum of ten feet wide along the entire length of the lot immediately landward of the ordinary high water mark. Planting shall consist of native shrubs and trees and, when possible, emergent vegetation. At least five native trees will be included in a planting plan containing one or more evergreen trees and two or more trees that like wet roots (e.g., willow species), per every 100 lineal feet of shoreline.

Such planting shall be monitored for a period of five years according to an approved monitoring plan. This subsection is not intended to prevent reasonable access through the shoreline critical area buffer to the shoreline, or to prevent recreational use of the shoreline critical area. This requirement may be waived or reduced for water-dependent transportation uses where it is demonstrated that vegetation could result in safety or navigation hazards.

13. No private moorage or other structure waterward of the ordinary high water mark, including structures attached thereto, shall be closer than twelve feet to any adjacent property line except when there is a mutual agreement of adjoining property owners. Excepted from the requirements of this section are boat lifts or portions of boat lifts that do not exceed thirty inches in height measured from ordinary high water mark.
14. Proposals to repair existing legally established moorage facilities where the nature of the repair is not described in KMC 16.55.030 of this section shall be considered minor repairs and are permitted, consistent with any applicable standards of this Title, Title 18 and any other applicable codes or regulations.
15. No covered boat lift, dock, pier, covered moorage, covered float, or other covered structure is permitted waterward of the ordinary high water mark, except as provided below:
 - a. Submerged, free-standing mechanical boat lifts associated with single detached residential docks or piers and recreational watercraft may be covered with a canopy, provided:
 - i. No canopy shall be more than twenty-five feet in length or wider than fifteen feet;
 - ii. No portion of the canopy shall exceed a height of twelve feet above the ordinary high water mark;
 - iii. The canopy shall at no time have any side partly or wholly enclosed;
 - iv. The highest portion of the canopy shall be located below the lowest grade point on the waterward side of the existing homes on surrounding properties;
 - v. Canopies shall be made out of canvas or other such non-toxic materials;
 - vi. Canopies shall be of a translucent material to allow light transmission;
 - vii. The total overwater coverage of the piers, floats, ramps, ells, and canopy for a single family residence with a single-use moorage shall not exceed 600 square feet; and
 - viii. Only one boat lift canopy per single detached residence shall be allowed.

b. Covered moorage may be provided for commercial boat repair facilities.

16. No dwelling unit may be constructed on a dock or pier.

17. Buoys shall meet the following conditions:

a. Buoys shall not impede navigation;

b. The use of buoys for moorage of recreational and commercial vessels is preferred over pilings or float structures;

c. Buoys shall be located and managed in a manner that minimizes impacts to aquatic habitat;

d. No more than four buoys per acre are allowed.

C. Proposals that do not meet the requirements of subsections B.6, 8, 9 or 15 of this section and that are designed to support a commercial or manufacturing water-dependent use, or to provide public access, or to serve residential uses, may be considered by the director. For any alternative proposal, the applicant must demonstrate that the proposed deviation is the minimum necessary to meet the needs of the specific use proposed, and provides an equal or greater degree of protection of ecological functions and anadromous species habitat than would strict adherence to the standards. For purposes of meeting this requirement, the director will review the required habitat management plan to determine whether the project is adequately protective.

16.55.060. Grading, dredging, dredge material disposal and filling

Grading, dredging, dredge material disposal and filling must be consistent with KMC 16.90 and may be permitted in shorelines only as follows:

A. Fill may be permitted below the ordinary high water mark only:

1. When necessary to support a water dependent use;
2. To provide for public access;
3. When necessary to mitigate conditions that endanger public safety, including flood risk reduction projects;
4. To allow for cleanup and disposal of contaminated sediments as part of an interagency environmental cleanup plan;
5. To allow for the disposal of dredged material considered suitable under, and conducted in accordance with, the dredged material management program of the Washington Department of Natural Resources;

6. For expansion or alteration of transportation or utility facilities currently located on the shoreline and then only upon demonstration that alternatives to fill are not feasible; or
 7. As part of mitigation actions, environmental restoration projects and habitat enhancement projects.
- B. Grading, dredging, and filling shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration, and mitigation shall employ the mitigation sequence in KMC 18.55.210.
- C. Dredging and dredged material disposal below the ordinary high water mark shall be permitted only:
1. When necessary for the operation of a water dependent use;
 2. When necessary to mitigate conditions that endanger public safety or fisheries resources;
 3. For establishing, maintaining, expanding, relocating or reconfiguring navigation channels and basins when necessary to ensure safe and efficient accommodation of existing navigation uses when:
 - a. Significant ecological impacts are minimized;
 - b. Mitigation is provided, employing the mitigation sequence in KMC 18.55.210; and
 - c. Dredging is maintained to the existing authorized location, depth and width.
 4. For restoration projects associated with implementation of the Model Toxics Control Act or the Comprehensive Environmental Response, Compensation, and Liability Act; or any enhancement or restoration project.
 5. For flood risk reduction projects conducted in accordance with KMC 16.90.
- D. Dredging is not allowed waterward of the ordinary high water mark for the primary purpose of obtaining fill material.
- E. Disposal of dredged material shall be done only in approved upland disposal sites and is not allowed within critical areas or their buffers.
- F. Stockpiling of dredged material in or under water is prohibited.
- G. In order to ensure that operations involving dredged material disposal and maintenance dredging are consistent with the Shoreline Master Program as required by RCW 90.58.140(1), no dredging may commence in any shoreline environment without the responsible person having first obtained either a substantial development permit or a statement of exemption. A statement of exemption or shoreline permit is not required prior to emergency dredging needed to protect

property from imminent damage by the elements if statement of exemption or substantial development permit is subsequently obtained following the procedures in KMC 16.75.

H. The removal of gravel for flood management is allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

16.60 Vegetation conservation.

16.60.010 Vegetation conservation areas.

A. Shoreline buffers shall be considered vegetation conservation areas in which existing native vegetation is retained, unless removal is specifically allowed in this chapter or it can be demonstrated that another management approach would provide equal or better protection for shoreline ecological processes and functions. Non-native vegetation may be retained unless otherwise required to be replaced as part of an enhancement associated with development or expansion of development on the property.

B. Native and non-native trees determined by the city to be hazardous or diseased may be removed. Selective pruning for safety and view protection is allowed provided pruning is conducted in a manner that minimizes harm to the health of the trees being pruned.

C. Non-native vegetation may be removed as part of a restoration or enhancement project if replacement plantings will provide greater benefit to shoreline ecological processes than would be provided by strict application of this chapter.

D. Landscaping plans for shoreline buffers associated with shoreline development regulated under the Shoreline Code must be prepared by a landscape architect or certified professional wetland scientist. Landscaping plans are not required for normal maintenance, including maintenance of existing nonconforming landscaping that complies with KMC 16.75.050.

E. Landscaping plans for shoreline buffers should avoid adverse impacts on existing public views of the shoreline.

F. Vegetation management in shorelines shall be consistent with the requirements for grading permits under KMC 15.25. If there is a conflict between this chapter and KMC 15.25, the more restrictive standards shall apply.

G. When considering compensatory habitat enhancement as mitigation for impacts from new structures, such as when a reduced buffer or a non-water dependent use is requested, the enhancement should be proportional to the degree of impact of the new structure on shoreline ecological functions, and take into account the degree to which the existing buffer has already been compromised. Enhancement should focus on restoring ecological functions that are most critical and that have been most diminished in the Kenmore shoreline. In approving any compensatory habitat enhancement plan, the director shall consider the changes in surface water runoff rates and

water quality (such as through increased impervious area), habitat structure (such as loss or alteration of vegetation), and habitat quality (such as from lighting, noise, or activities) that the project would cause. Enhancements should generally focus on offsetting these impacts but may focus on restoring other critical ecological functions in the shoreline that have been lost or diminished (such as placement of large woody debris in water or restoring shallow water habitat). The director may determine whether an enhancement that provides a broader benefit may be substituted for one that would offset the impacts of an individual project. The director may deny a request to allow intrusion into a buffer or for development of a non-water dependent use if the enhancement proposed does not fully mitigate the impacts of the project or provide a sufficient broader benefit.

16.60.020 Vegetation management within critical areas.

A. Vegetation management standards established in KMC 18.55.150(A)(5), 18.55.320(F)(5 and 6), 18.55.520(A)(2)(d) and (G), 18.55.530 and 18.55.650(A)(5) for critical areas and their buffers shall apply within all shorelines.

B. Vegetation management standards established in KMC 18.55.420 for streams and their buffers shall apply within Sammamish River and Swamp Creek shorelines. In addition to provisions for recreational uses in KMC 16.65.020 allowing limited modifications to critical area buffers for the purposes of public access improvements, the following standards shall apply in shorelines:

1. In Swamp Creek Park, public access trails may be located within critical areas and required buffers, when planned along with a habitat restoration project and it is demonstrated that the ecological functions of the overall standard stream buffer area would be substantially improved. Trails in Swamp Creek Park roughly paralleling the shoreline of the Sammamish River or Swamp Creek shall generally be located at least 50 feet from the ordinary high water mark, but trails may extend closer to the water if necessary to reduce impacts on critical areas or adjacent properties, or access a pedestrian bridge across Swamp Creek. Spur trails may be extended to the water's edge but such access areas should be limited in order to protect ecological functions of the stream buffer and wetlands.

2. When public access is being provided as a part of mixed use development allowed in the Urban Conservancy environment under KMC 16.50.030.B.2.a.ii, the director may allow public access trail development within the buffer in order to link with adjacent shoreline access, provided any new trail is farther from the shoreline than the waterward extent of existing development on the site and the proposed trail plan is accompanied by a plan demonstrating that the ecological functions of the overall required buffer area on a project site would be substantially improved.

16.60.030 Vegetation management within Lake Washington shoreline buffers.

A. Vegetation removal within lake shoreline buffers is prohibited in the Shoreline Residential, Urban Conservancy, and Natural shoreline environments along Lake Washington unless the

activity is part of a shoreline restoration or enhancement project or the vegetation removal is otherwise specifically allowed under KMC 16.50 or 16.55.

B. Vegetation clearing for permitted water-dependent uses is allowed in the Downtown Waterfront environment. Such vegetation clearing must occur only in the minimum shoreline area that is necessary to support the permitted water-dependent use.

16.65 SHORELINE DENSITY AND DIMENSIONS.

16.65.010 Interpretation of shoreline density and dimensions table.

- A. The shoreline density and dimensions table in KMC 16.65.020 establishes the shoreline standards within each of the shoreline environments. The shoreline environment is located on the vertical column and the density and dimensions standard is located on the horizontal row of the table. The table should be interpreted as follows:
1. If the cell is marked with a Z in the box at the intersection of the column and the row, the shoreline does not impose a specific buffer requirement on that use, although the standards for the underlying zoning apply. In some cases, no standard is provided because the use is prohibited under KMC 16.50.
 2. If the cell has a number in the box at the intersection of the column and the row, that number is the density or dimension standard for that shoreline environment.
 3. If the cell has a parenthetical number in the box at the intersection of the column and the row, that parenthetical number identifies specific conditions listed in KMC 16.65.020.B that are related to the density and dimension standard for that environment.
- B. The density and dimensions enumerated in this section apply to any lot within the shoreline jurisdiction. If there is a conflict between the density and dimension standards in this section and the underlying zoning regulations, the more restrictive standard shall apply.
- C. For development in critical areas and critical area buffers, the applicable provisions of Chapter 18.55 KMC apply unless a specific exception is provided in the shoreline code.
1. Because Lake Washington, the Sammamish River, and Swamp Creek are all fish and wildlife habitats of importance, a habitat management plan is required for any in-water or overwater development or activity, per KMC 18.55.520.
 2. Within the shoreline jurisdiction, the required acreage replacement ratios for wetlands shall be as follows:

Wetland Mitigation Ratios:

Category and Type of Wetland	Creation or Reestablishment (C/R)	Creation (C) or Reestablishment (R) plus Enhancement (E)	Enhancement (E) Only
Class 1	3:1	1:1 C/R plus 6:1 E	Not Allowed
Class 1 (Mature Forested)	6:1	1:1 C/R plus 20:1 E	Not Allowed
Class 2	2:1	1:1 C/R plus 4:1 E	Not Allowed
Class 3	1.5:1	1:1 C/R plus 2:1 E	6:1

16.65.020 Shoreline density and dimensions table and development conditions.

A. Shoreline Density And Dimensions Table

	DOWNTOWN WATERFRONT	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
Standards					
Shoreline Buffers from OHWM on Lake Washington					
Water-dependent commercial development	20 ft (1)	Z	115 ft (1)	Z	0
Water-related commercial development	20 (1) ft	Z	115 ft (1)	Z	0
Non-water-dependent and non-water-related commercial development	50 ft (1)	Z	150 ft	Z	Z
Government services	20 ft (6)	20 ft (6)	20 ft (6)	20 ft (6)	0
Single family residential development	Z	25 ft (2)	115 ft (2)	150 ft (2)	Z
Multifamily residential development	50 ft	75 ft	115 ft	Z	Z
Water-dependent and water-related manufacturing and industrial use	20 ft (1) (3)	Z	115 ft (1) (3)	Z	0

	DOWNTOWN WATERFRONT	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
Non-water-related manufacturing and industrial use	50 ft	Z	Z	Z	Z
Parks and recreation	50 ft (4)	75 ft (4)	115 ft (4)	115 ft (4)	0
Accessory Surface Parking	100 ft	100 ft	115 ft	150 ft	0
Utilities and regional land uses	50 ft (5)	75 ft (5)	115 ft (5)	115 ft (5)	Z
Building Setback from the Shoreline Buffer					
Single Family uses	15 ft	25 ft (2)	15 ft	15 ft	Z
All uses except Single Family uses	15 ft	15 ft	15 ft	15 ft	Z
Building Height					
Base height	35 ft	35 ft	35 ft	30 ft	35 ft
Additional height allowed when permitted in underlying zoning	Yes (7)	Yes (7)	Yes (7)	No	No

B. Development conditions (Footnotes to Shoreline Density And Dimensions Table KMC 16.65.020.A).

1. New water-dependent uses may be allowed within a shoreline buffer only if impacts are mitigated consistent with the requirements in KMC 18.55.190-220, 18.55.330 and 18.55.430 such that there is no net loss of shoreline ecological processes or functions. The director may allow non-water-dependent uses within the shoreline buffer along the inner harbor portion of the Downtown Waterfront area at the northeast end of Lake Washington, only if:
 - a. The uses are developed in conjunction with a public access promenade adjacent to the water; and
 - b. The uses do not interfere with public access or preclude the use of the shoreline for water dependent uses; and
 - c. Mitigation is provided consistent with the requirements in KMC 18.55.190-220, 18.55.330 and 18.55.430 such that there is no net loss of shoreline ecological processes or functions.

2. Single family residential development shall provide buffers and setbacks as follows:
 - a. On Lake Washington in Shoreline Residential areas:
 - i. A minimum shoreline buffer of 25 feet from the ordinary high water mark shall be provided as a vegetation conservation area.
 - ii. The minimum building setback of 25 feet from the shoreline buffer may be reduced to five (5) feet if vegetation in the required buffer is reestablished or enhanced, according to the standards in KMC 16.60.010.G.
 - b. On Lake Washington in Urban Conservancy areas:
 - i. A minimum buffer of 115 feet from the ordinary high water mark shall be provided as a vegetation conservation area.
 - ii. A minimum building setback of 15 feet from the shoreline buffer shall be provided.
 - c. On Lake Washington in Natural areas:
 - i. A minimum buffer of 150 feet from the ordinary high water mark shall be provided as a vegetation conservation area.
 - ii. A minimum building setback of 15 feet from the shoreline buffer shall be provided.
 - d. On all other shorelines, single family development shall provide a buffer as required by the provisions of KMC 18.55. Buffers may be reduced to the specified minimum setbacks in this table only if the reduced buffers are allowed by the provisions of KMC 18.55.
3. Outdoor storage for water-dependent manufacturing and industrial uses must be at least 20 feet from the ordinary high water mark in the Downtown Waterfront environment and is prohibited in all other environments.
4. New public access improvements shall comply with the requirements of KMC 18.55, provided that new public access improvements may be allowed within critical areas, or shoreline or critical area buffers if impacts are mitigated consistent with the requirements in KMC 18.55.190-220, 18.55.330 and 18.55.430 such that there is no net loss of shoreline ecological processes or functions, and the public access improvements meet the following standards:
 - a. In order to encourage public access improvements and improved shoreline habitat in the Downtown Waterfront shoreline, a public access trail may be located within the stream buffer required in KMC 18.55.420, when accompanied by a plan

demonstrating that the ecological functions of the overall required buffer area on a project site would be substantially improved. Trails paralleling the shoreline of the Sammamish River in the Downtown Waterfront environment shall be located at least 50 feet from the ordinary high water mark. Spur trails may be extended to the water's edge but such access areas should be limited in order to protect ecological functions of the buffer.

- b. In order to allow for a waterfront promenade area along the inner harbor area of the Downtown Waterfront environment, public access improvements may extend to the water's edge when accompanied by a plan demonstrating that the ecological functions of the overall required buffer area on a project site would be substantially improved.
- 5. Underground utilities are allowed in the shoreline buffer.
 - 6. Only water-dependent government service uses are allowed and such uses may require development in the buffer. If through mitigation sequencing per KMC 18.55.210, impacts to the buffer are found to be unavoidable, the buffer may be reduced provided there is not net loss of ecological functions.
 - 7. Additional height may be permitted under the following conditions:
 - a. The structures would not obstruct the view of a substantial number of residences, and
 - b. The structures are located in an area designated on Map 1 (Shoreline Environment Designations) as allowing these additional heights, and
 - c. The structure height complies with the allowable height of the underlying zone and the following additional height limits within the shoreline, and
 - d. The additional height of the structures would not impair the ecological functions of the stream, lake, wetland, or the required buffer. In particular, the effects of shading and light impacts on the viability of vegetation in the buffer shall be considered when making this determination, and
 - e. Be outside of the floodway in effect at the time of permit application, and
 - f. Not be within a wetland or wetland buffer as regulated by 18.55 KMC.

Distance from Structure to Ordinary High Water Mark	Maximum Height Allowed Area H-1	Maximum Height Allowed Area H-2	Maximum Height Allowed Areas H-3 and H-4
Less than 50 feet	35 feet	35 feet	35 feet
50 to 100 feet	50 feet	45 feet	35 feet
100 to 112.5 feet	50 feet	75 feet	35 feet
112.5 to 200 feet	50 feet	75 feet	65 feet

The burden to demonstrate that the proposal meets the criteria of this section is on the applicant. The director may require technical studies as necessary to demonstrate compliance.

16.70.010 Subdivisions

A. Any legally created, existing lot that does not comply with the density and dimensions standards of KMC 16.65 and KMC Title 18 and that is located wholly or partially within the shorelines of the state shall be subject to the following provisions:

1. If the adjoining property is not under the same ownership as such lot, then the lot shall be considered a separate building site; and
2. If the adjoining property is under the same ownership as such lot, then the lot shall not be considered a separate building site until the lot is combined with adjoining property under the same ownership in such a way as to comply with the density and dimensions standards of KMC 16.65 and KMC Title 18.

B. Submerged land within the boundaries of any waterfront parcel shall not be used to compute lot area, lot dimensions, yards, recreation space or other similar required conditions of land subdivision or development, except, where specifically authorized by ordinance, such lands may be used in area computations as an incentive to encourage common open space waterfront areas.

C. All newly created lots wholly or partially within the shoreline shall be of uniform size and dimension, whenever possible.

D. Subdivision of more than four lots shall provide an improved and maintained pedestrian easement to the shoreline that is of sufficient width to ensure usable public access. The public access to the shoreline shall be in conformance with the standards in KMC 16.50.060.

E. Subdivisions should be designed to locate structures outside the shoreline jurisdiction whenever feasible. When lots are located within the shoreline jurisdiction, the size and shape of the lots should allow for the construction of residential units that are outside of required buffers and setbacks and that do not require shoreline stabilization.

F. Subdivision of a waterfront lot for the purposes of creating a lot for a non-water-dependent use that would not otherwise be allowed is prohibited.

Chapter 16.75 PROCEDURES

In addition to the requirements of KMC 19.25, the following administrative procedures apply to development in the shoreline jurisdiction.

16.75.010 Substantial development – Permit required – Exemption.

A. No development shall be undertaken by any person within the shoreline jurisdiction unless such development is consistent with the policies of RCW 90.58.020 and the Shoreline Master Program. Development within the shoreline jurisdiction shall conform to the Shoreline Master Program whether or not the development requires a permit from the City of Kenmore.

B. A substantial development permit shall be required for all proposed uses and modifications unless the proposal is specifically exempt from the definition of substantial development in RCW 90.58.030 and WAC 173-27-040 or is exempted by RCW 90.58.140.

C. Any person claiming exception from the permit requirements of this chapter as a result of the exemptions described in Subsection B of this section may be required to submit an application to the director for such an exemption in the manner prescribed by the director. A person requesting an exemption shall provide a written statement of exemption for activities that are exempt from the substantial development permit requirement in subsection B of this section when:

1. WAC 173-27-050 applies; or
2. The activity will occur waterward of the ordinary high water mark.

D. Whether or not a written statement of exemption is required, all permits issued for development activities within the shoreline jurisdiction shall include a record of review indicating compliance with the City of Kenmore Shoreline Master Program.

E. Conditions of approval may be attached to the approval of substantial development permits, statements of exemptions, or exempted developments as necessary to ensure consistency of the project with the City of Kenmore Shoreline Master Program.

16.75.020 Permits – Prerequisite to other permits.

In the case of development subject to the permit requirements of this title, Kenmore shall not issue any other permit for such development until such time as approval has been granted pursuant to this title. Any development subsequently authorized by Kenmore shall be subject to the same terms and conditions which apply to the development authorized pursuant to this title, in addition to any other terms or conditions required for the subsequent authorization.

16.75.025 Permits – Reasonable Accommodation

The Federal Fair Housing Act requires that reasonable accommodations be made in rules, policies, practices, or services, when such accommodations may be necessary to afford handicapped people equal opportunity to use and enjoy a dwelling. The director is therefore authorized to make accommodations in the provisions of this title as applied to dwellings occupied or to be occupied by handicapped persons as defined in the Federal Fair Housing Act, when the director determines that such accommodations reasonably may be necessary in order to comply with such Act.

16.75.030 Permits – Variance.

A. The director is authorized to grant a variance from the performance standards of the City of Kenmore Shoreline Master Program only under the conditions enumerated in WAC 173-27-170 (Review Criteria for Variance Permits). Shoreline variance permits are also subject to review and approval by the WA Department of Ecology (RCW 90.58.140(10)). The purpose of a variance permit is limited to granting relief from development standards set forth in the City of Kenmore Shoreline Master Program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the City of Kenmore Shoreline Master Program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

B. A variance from city zoning code requirements shall not be construed to mean a variance from the City of Kenmore Shoreline Master Program use or development regulations and vice versa.

C. Shoreline variances may not be used to permit a use that is specifically prohibited in KMC 16.50.

D. The burden of proving that a proposed variance meets the requirements of KMC 16.75.030 A through C shall be on the applicant; absence of such proof shall be grounds for denial of the application.

E. The fee which shall accompany an application for a shoreline variance shall be as adopted by resolution.

16.75.040 Permits – Conditional use.

A. The director is authorized to issue shoreline conditional use permits only under the conditions enumerated in RCW 90.58.140, RCW 90.58.143 and WAC 173-27-160. Conditional use permits are also subject to review and approval by the WA Department of Ecology (RCW 90.58.140(10)).

B. The burden of proving that a proposed shoreline conditional use meets the criteria enumerated in WAC 173-27-160 shall be on the applicant. Absence of such proof shall be grounds for denial of the application; provided, however, that the director is authorized to determine and impose, on a case-by-case basis, those conditions and standards which may be required to enable any proposed shoreline conditional use to satisfy the criteria established in WAC 173-27-160.

16.75.050 Alteration or reconstruction of nonconforming use or development.

A. The review of applications for the modification of a nonconforming use or development shall be subject to the regulations enumerated in KMC 18.100.020 through 18.100.060, and 18.100.080 through 18.100.087, except that a nonconforming bulkhead may be replaced with a new bulkhead provided that:

1. The reconstructed bulkhead does not create new dry land, and
2. At least 40 percent of the bulkhead is replaced with a pocket cove or beach, and
3. The proposed reconstruction would substantially reduce the impacts of the existing structure on shoreline ecological functions, and
4. The project would not cause adverse impacts on adjacent shoreline uses.

B. Existing legal uses as defined under KMC 18.20.965 are considered existing legal uses within the shoreline jurisdiction.

C. Expansion of a nonconforming use or structure may be approved through the provisions of KMC 16.75.040 when the applicant demonstrates the following.

1. The project would substantially reduce the impacts of the existing use or structure on shoreline ecological functions, and
2. The proposed expansion would not cause adverse impacts on adjacent shoreline uses.
3. For a nonconforming structure located on land, any waterward expansion of the structure into the required setback would be offset by removal of another nonconforming structure of equal or greater footprint area in the shoreline setback, and the shoreline setback area would be restored with native riparian vegetation.

D. Expansion of a nonconforming dock may be allowed by the director when the applicant demonstrates the following:

1. The existing nonconformance results from noncompliance with the standards in KMC 16.55.050 B6, B8, B9 or B15, and
2. The proposed expansion meets all other applicable standards in KMC 16.55.050, and
3. The proposed expansion would not increase the existing overwater coverage of the dock to more than the existing condition or by the limits established in KMC 16.55.050.F, whichever is greater, and
4. The project would reduce the impacts of the existing dock on critical fish habitat as demonstrated through the habitat management plan for the development, and
5. The proposed expansion would not cause adverse impacts on adjacent shoreline uses.

16.75.060 Permits – Combined hearing authority.

A. In those cases when proposed development under the jurisdiction of this title also requires a Type 3 or Type 4 decision and a public hearing before the hearing examiner is required, the department shall issue a recommendation on the proposal, and the examiner shall conduct a public hearing to receive evidence relating to the issuance of a substantial development permit or exemption therefrom, a shoreline management conditional use permit and/or a shoreline management variance, if applicable.

B. The examiner shall conduct the hearing in accordance with the provisions of KMC 19.30 and shall exercise the powers therein.

C. The decision of the examiner shall be the decision of the director and shall be the final decision of the City with regard to shoreline management.

16.75.070 Permits – Approval or disapproval – Notification – Additional Conditions - Limitations.

A. In granting or extending a permit, the director may attach thereto conditions, modifications, or restrictions regarding the location, character and other features of the proposed development and related development and activity outside of the shoreline as necessary to make the permit compatible with the criteria set forth in KMC 16.05.030 and 16.75.010. Such conditions may include a requirement to post a performance bond assuring compliance with permit requirements, terms and conditions.

B. Issuance of a substantial development permit does not constitute approval pursuant to any other federal, state or City laws or regulations.

16.75.080 Appeals.

A. Appeals from the final decision of the city with regard to shoreline management shall be governed solely by the provisions of RCW 90.58.180, which shall prevail over any conflicting appeal procedures set forth in KMC 19.25.

B. The effective date of the City's decision shall be the date of receipt with the Department of Ecology as defined in RCW 90.58.140.

C. When a hearing and decision has occurred pursuant to KMC 16.75.060 and the examiner's recommendation with regard to disposition of a proposed development pursuant to KMC Titles 18 and 19 require city council action, the final decision of the city pursuant to this title shall be effective on the date of receipt as defined in RCW 90.58.140 for the purposes of appeal as provided in RCW 90.50.140. However, no development may occur until the city council has taken final action on the examiner's recommendation required by KMC Titles 18 and/or 19.

16.75.090 Rules of director.

The director is authorized to adopt such rules as are necessary and appropriate to implement this chapter. The director may prepare and require the use of such forms as are necessary to its administration.

16.75.100 Enforcement.

A. The director is authorized to enforce the provisions of this title, the ordinances and resolutions codified in it, and any rules and regulations promulgated thereunder pursuant to the enforcement and penalty provisions of KMC 1.20.

B. Any person found to have willfully engaged in activities on the shorelines of the state in violation of this title or the RCW 90.58 or in violation of the Kenmore Shoreline Master Program, rules or regulations adopted pursuant thereto is guilty of a gross misdemeanor, and shall be punished by a fine of not less than \$25 nor more than \$1,000, or by imprisonment for not more than 90 days, or by both fines and imprisonment; provided, that the fine for the third and all subsequent violations in any five-year period shall be not less than \$500 nor more than \$10,000.

C. The director shall bring such injunctive, declaratory, or other actions as are necessary to ensure that no uses are made of the shorelines of the state in conflict with the provisions of this title or RCW 90.58 or in conflict with the Shoreline Master Program, rules or regulations adopted pursuant thereto, and to otherwise enforce the provisions of this chapter and RCW 90.58.

D. Any person subject to the regulatory provisions of this title who violates any provision of this title or the provisions of a permit issued pursuant thereto shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area, within a reasonable time, to its condition prior to such violation. The director shall bring suit for

damages under this subsection on behalf of the city. Private persons shall have the right to bring suit for damages under this subsection on their own behalf and on behalf of all persons similarly situated. The court on its discretion may award attorney's fees and costs of the suit to the prevailing party.

16.75.110 Shoreline environment redesignation.

A. Shoreline environments designated by the Shoreline Master Program may be redesignated by the city council upon finding that such a redesignation will be consistent with the standards in KMC 16.75.160 and the requirements of WAC 173-26-100 and 173-26-110. A shoreline redesignation may be initiated by an applicant or by motion of the council and requires Department of Ecology approval.

B. A redesignation initiated by an applicant shall be made on forms and processed in a manner prescribed in KMC 16.75.120. A redesignation initiated by the council shall follow the process in KMC 16.75.130.

C. The fee which shall accompany an application for a shoreline redesignation shall be as adopted by resolution.

D. The departmental report and recommendation regarding an application or a site-specific redesignation initiated by council motion shall be forwarded to the hearing examiner for consideration together with all relevant testimony at a public hearing to be held consistent with the procedures for a zone reclassification as provided in KMC 19.30.

16.75.120 Redesignation applications.

A. A redesignation initiated by an applicant, as described in KMC 16.75.110(B), must follow the procedures in Chapters KMC 19.25 and 19.30 for shorelines redesignations and must include the following information in addition to the requirements in Chapter KMC 19.25:

1. Applicant information, including signature, telephone number and address;
2. The applicant's interest in the property, such as owner, buyer or consultant;
3. Property owner concurrence, including signature, telephone number and address;
4. A property description, including parcel number, property street address and nearest cross street;
5. A county assessor's map outlining the subject property;
6. Related or previous permit activity;
7. A description of the proposed shorelines redesignation;

8. A mitigation plan providing for significant enhancement of the first 100 feet adjacent to the shoreline and improved habitat for species declared as endangered or threatened under the Endangered Species Act, to the extent that the impacts of development can be determined at the time of the proposed shoreline redesignation; and
9. A discussion of how the proposed shoreline redesignation meets the criteria in KMC 16.75.160.

B. The examiner shall make a recommendation to the council based on the criteria for review in KMC 16.75.160.

16.75.130 Redesignation initiated by motion.

A. A motion initiating a shoreline redesignation, as described in KMC 16.75.110(B) must be accompanied by the following information:

1. A description of the shoreline and a property description, including parcel numbers, property street addresses and nearest cross streets, for all properties that the shoreline runs through or is adjacent to;
2. A county assessor's map outlining the subject property or properties; and
3. A description of the proposed shorelines redesignation.

B. If the motion proposes site-specific redesignation, as "site" is defined in KMC Title 18, the redesignation shall be referred to the hearing examiner for consideration following the procedures of KMC 16.75.120 for consideration of redesignation applications. Any other redesignation proposal initiated by motion shall be referred to the city manager for consideration as part of the process for amendment of comprehensive plan or development regulations as outlined in KMC 19.20.

C. A motion initiating a site-specific redesignation must identify the resources and the work program required to provide the same level of review accorded to an applicant-generated shoreline redesignation. Before adoption of the motion, the city manager shall have the opportunity to provide an analysis of the motion's fiscal impact. If the city manager determines that additional funds are necessary to complete the work program, the city manager may transmit an ordinance requesting the appropriation of supplemental funds. The council may consider the supplemental appropriation ordinance concurrently with the proposed motion referring the shorelines redesignation proposal to the examiner.

D. A site-specific redesignation initiated by motion shall follow the procedures in KMC 19.25 and 19.30 for shorelines redesignations with regard to the information to be provided and the notice and hearing processes, and shall meet the submittal requirements of KMC 16.75.120. The examiner shall make a recommendation to the council based on the criteria for review in KMC 16.75.160.

16.75.140 Frequency of consideration of shoreline redesignations.

A shorelines redesignation may not be initiated unless at least three years have elapsed since the council's prior consideration of the current designation for the property. The city manager or the council may waive this time limit if the proponent establishes that there exists either an obvious technical error or a change in circumstances justifying the need for earlier consideration of the shorelines redesignation.

16.75.150 Shoreline redesignation and site-specific land use map amendment or zone reclassification.

A site-specific shorelines redesignation may be accompanied by a related proposal for a site-specific land use map amendment or zone reclassification, or both, in which case city review of the two applications must be consolidated to the extent practical, consistent with this division and KMC 19.25. The council's consideration of a subarea or comprehensive shorelines redesignation is a legislative decision that must be determined before and separate from the council's final consideration of a zone reclassification or site-specific shorelines redesignation, which is a quasi-judicial decision.

16.75.160 Criteria for hearing examiner review.

A shorelines redesignation referred to the hearing examiner for a public hearing shall be reviewed based upon the requirements of comprehensive plan policies and city shorelines management goals and objectives and the following additional standards:

- A. The proposed change implements and supports the goals of the State Shorelines Management Act and City of Kenmore Shoreline Master Program requested;
- B. The impacts of development allowed by the proposed change will not permanently impair any habitat critical to endangered or threatened species; and
- C. The impacts of development allowed by the proposed change are adequately addressed in a mitigation plan providing significant enhancement of the first 100 feet adjacent to the stream and improved habitat for species declared as endangered or threatened under the Endangered Species Act, to the extent those impacts may be determinable at the time of the shorelines redesignation. A full mitigation plan shall accompany each application, as provided in KMC 16.75.120 and 16.75.130.

Chapter 18.55

CRITICAL AREAS

Sections:

Article I. Purpose and General Provisions

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

Article II. Best Available Science

- 18.55.110 Best available science.

Article III. Applicability,
Exemptions, and Exceptions

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

Article IV. Critical Areas Report

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

Article V. Unauthorized
Alterations and Enforcement

- 18.55.230 Unauthorized critical area alterations
and enforcement.

Article VI. General Critical Area
Protective Measures

- 18.55.250 Notice on title.
- 18.55.260 Critical area tracts.
- 18.55.270 Building setbacks.

18.55.280	Bonds to ensure mitigation, maintenance, and monitoring.	Article XVI. Geologically Hazardous Areas – Designation
18.55.290	Critical area inspections.	
	Article VII. Wetlands – Designation and Rating	18.55.600 Purpose.
18.55.300	Designation and rating of wetlands.	18.55.610 Designation of geologically hazardous areas.
	Article VIII. Wetlands – Additional Report Requirements	18.55.620 Designation of specific hazard areas.
18.55.310	Critical areas report.	Article XVII. Geologically Hazardous Areas – Report Requirements
	Article IX. Wetlands – Performance Standards	18.55.630 Critical areas report.
18.55.320	Performance standards – General requirements.	Article XVIII. Geologically Hazardous Areas – Performance Standards
18.55.330	Performance standards – Mitigation requirements.	18.55.640 Performance standards – General requirements.
	Article X. Streams – Designation and Rating	18.55.650 Performance standards – Specific hazards.
18.55.400	Designation and rating of streams.	Article XIX. Flood Hazard Areas
	Article XI. Streams – Additional Report Requirements	18.55.700 Flood hazard areas.
18.55.410	Critical areas report.	18.55.710 Flood fringe – Development standards and permitted alterations.
	Article XII. Streams – Performance Standards	18.55.720 Zero-rise floodway – Development standards and permitted alterations.
18.55.420	Performance standards – General.	18.55.730 FEMA floodway – Development standards and permitted alterations.
18.55.430	Performance standards – Mitigation requirements.	18.55.740 Flood hazard areas – Certification by engineer or surveyor.
	Article XIII. Fish and Wildlife Habitats of Importance – Designation	18.55.750 Channel relocation and stream meander areas.
18.55.500	Designation of fish and wildlife habitats of importance.	Article I. Purpose and General Provisions
	Article XIV. Fish and Wildlife Habitats of Importance – Report Requirements	18.55.010 Purpose and goals.
18.55.510	Critical areas report.	A. The purpose of this chapter is to designate and classify ecologically critical and geologic hazard areas in order to protect ecologically critical areas and protect lives and property from hazards, while also allowing for reasonable use of private property.
	Article XV. Fish and Wildlife Habitats of Importance – Performance Standards	B. This chapter is to implement the goals, policies, guidelines, and requirements of the city of Kenmore (city) comprehensive plan and the Growth Management Act (GMA).
18.55.520	Performance standards – General requirements.	C. The city finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the city and its residents, and/or may pose a threat to human safety or
18.55.530	Performance standards – Specific habitats.	

to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, ground water recharge and discharge, erosion control, protection from hazards, historical and archaeological and aesthetic value protection, and recreation. These beneficial functions are not listed in order of priority.

D. By strategically developing according to the city's integrated comprehensive plan and final environmental impact statement (2001) and limiting alteration of critical areas, this chapter seeks to:

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

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

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

G. The city's enactment and enforcement of this chapter shall not be construed for the benefit of any individual person or group of persons other than the general public. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.020 Authority.

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

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

C. In the event that multiple critical areas occur on a site, it is the authority of the director to balance the protection of the multiple critical areas and provide appropriate mitigation. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.030 Relationship to other regulations.

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

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

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

D. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, shoreline substantial development permits, the Washington State Department of Fish and Wildlife hydraulic project approval (HPA), Army Corps of Engineers Section 404 permits, and National Pollution Discharge Elimination System (NPDES) permits). The applicant is responsible for complying with these requirements, apart from the process established in this chapter. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.040 Administrative procedures.

The administrative procedures followed during the critical area review process shall conform to the standards and requirements of the city development regulations. This shall include, but not be limited to, timing, appeals, and fees associated with applications covered by this chapter. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.050 Fees.

The city by resolution shall establish fees for critical area review processing and other services provided by the city as required by this chapter. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.060 Severability.

If any permission of this chapter or the application thereof to any person or circumstances shall be judged by any court of competent jurisdiction to be

invalid, the remainder of this chapter and its application to other persons or circumstances is not affected. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.070 Administrative rules.

Applicable departments within the city are authorized to adopt such administrative rules and regulations as necessary and appropriate to implement this chapter and to prepare and require the use of such forms as necessary for its administration. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.080 Interpretation.

In the interpretation and application of this chapter, the provisions of this chapter shall be considered to be the minimum requirements necessary, shall be liberally construed to serve the purpose of this chapter, and shall be deemed to neither limit nor repeal any other provisions under state statute. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.090 Jurisdiction – Critical areas.

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

B. Critical areas regulated by this chapter include:

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

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

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

1. On a site immediately adjoining a critical area;
2. A distance equal to or less than the required critical area buffer width and building setback;
3. A distance equal to or less than one-half mile (2,640 feet) from a bald eagle nest;
4. A distance equal to or less than 900 feet from the closest nest of a heron rookery; or
5. Within the floodway, floodplain or channel migration zone. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.100 Protection of critical areas.

Any action taken pursuant to this chapter shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the best available science. All actions and developments shall be designed and constructed in accordance with mitigation sequencing [KMC 18.55.210] to avoid, minimize, restore, and compensate for adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas. [Ord. 06-0244 § 59 (Exh. 1).]

Article II. Best Available Science

18.55.110 Best available science.

A. Protection for Functions and Values and Anadromous Fish. Critical areas reports and decisions to alter critical areas shall rely on the best available science to protect the functions and values of critical areas. The best available science is scientific information applicable to the critical area prepared by local, state or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals, that is consistent with criteria established in WAC 365-195-900 through 365-195-925. Special consideration shall be given to conservation or protection measures necessary to preserve or enhance anadromous fish and their habitat, such as salmon and bull trout, as required by WAC 365-195-900 through 365-195-925. [Ord. 06-0244 § 59 (Exh. 1).]

Article III. Applicability, Exemptions, and Exceptions

18.55.120 Applicability.

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

B. The city shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first assuring compliance with the requirements of this chapter.

C. Approval of a permit or development proposal pursuant to the provisions of this chapter does not discharge the obligation of the applicant to comply with the provisions of this chapter. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.130 Mapping.

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

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

1. Wetlands and Streams.
 - a. City stream and wetland inventory;
 - b. King County critical areas map folio.
2. Fish and Wildlife Habitats of Importance.
 - a. Washington State Department of Fish and Wildlife priority habitat and species maps;
 - b. Washington State Department of Natural Resources official water type reference maps, as amended;
 - c. Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors Reports published by the Washington State Conservation Commission; and

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

3. Geologically Hazardous Areas.

a. King County critical areas map folio, as modified by the city;

b. U.S. Geological Survey landslide hazard and seismic hazard maps;

c. Washington State Department of Natural Resources seismic hazard maps for Western Washington; and

d. Washington State Department of Natural Resources slope stability maps.

4. Flood Hazard Areas.

a. Federal Emergency Management Administration flood insurance rate maps and studies. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.140 Signs and fencing of critical areas.

A. Signs.

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

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

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

Environmentally Critical Area
Do Not Disturb
Contact the City of Kenmore
425-398-8900
Regarding Uses and Restriction

B. Fencing.

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

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

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

4. Fencing is not required for single-family residential lots where subdivision is not proposed. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.150 Exemptions.

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

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

1. Activities, including routine maintenance, involving artificial drainage features intentionally created from nonwetland sites, including but not limited to grass-lined swales, irrigation and drainage ditches, detention facilities, and landscape features;

2. Normal and routine maintenance, operation and reconstruction of existing roads, streets, utilities and associated rights-of-way and structures; provided, that reconstruction of any structures may not increase the impervious area or remove flood storage capacity;

3. Normal maintenance and repair, and reconstruction or remodeling of residential or commercial structures, or legal preexisting and ongoing uses of the site; provided, that reconstruction of any structures may not increase the previously approved building footprint;

4. Site investigative work and studies necessary for preparing land use applications, including soils tests, water quality studies, wildlife studies and similar tests and investigations, where such activities do not require construction of new roads or significant amounts of excavation; and provided, that any disturbance of the critical area shall be the minimum necessary to carry out the work or studies and disturbed areas shall be immediately restored;

5. Educational activities, scientific research, and passive outdoor recreational activities, including but not limited to interpretive field trips, bird-watching, and pervious trails for hiking, that will not have a significant adverse effect on the critical area;

6. Emergency activities necessary to prevent an immediate threat to public health, safety, property or welfare;

7. Minor activities not mentioned above and determined by the director to have minimal impacts to a critical area;

8. Installation, construction, replacement, repair or alteration of utilities and their associated facilities, lines, pipes, mains, equipment or appurtenances in improved city road rights-of-way.

B. Operation, Maintenance or Repair. Operation, maintenance or repair of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees or drainage systems, that do not require construction permits, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair.

C. Modification to Existing Structures.

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

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

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

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

1. The removal of vegetation listed in King County's noxious weed list.

2. The removal of trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property, from critical areas and buffers; provided, that the director determines that the disturbance to the critical area is minimal.

3. Measures to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act, Chapter 76.09 RCW; provided, that the removed vegetation shall be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.160 Exception – Public agency and utility.

A. If the application of this chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this section.

B. Exception Request and Review Process. An application for a public agency and utility exception shall be made to the city and shall include a critical areas report, including mitigation plan, if necessary, and any other related project documents, such as permit applications to other agen-

cies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (SEPA).

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

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

1. There is no other practical alternative to the proposed development with less impact on the critical areas; and

2. The application of this chapter would unreasonably restrict the ability to provide utility services to the public. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.170 Variances.

A. Variances from the standards of this chapter may be authorized by the city in accordance with the procedures set forth in the city's zoning code.

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

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

1. There are special circumstances applicable to the subject property or to the intended use such as shape, topography, location or surroundings that do not apply generally to other properties and which support the granting of a variance from the buffer width requirements; and

2. Such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property but which because of special circumstances is denied to the property in question; and

3. The granting of such buffer width variance will not be materially detrimental to the public welfare or injurious to the property or improvement; and

4. The granting of the buffer width variance will not significantly impact the subject critical area; and

5. The decision to grant the variance includes the best available science and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish habitat; and

6. The granting of the variance is consistent with the general purpose and intent of the city's integrated comprehensive plan and environmental impact statement (2001) and adopted development regulations.

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

E. Director Review. The director shall review the application. The director shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the variance criteria in subsection (B) of this section.

F. Time Limit. The city shall prescribe a time limit within which the action for which the variance is required shall be begun, completed, or both. Failure to begin or complete such action within the established time limit shall void the variance. The development proposal or building permit must be applied for within two years from the approval date of the variance. The completion of the action will be consistent with the associated development approvals.

G. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.180 Exception – Reasonable use.

A. If the application of this chapter pertaining to critical areas will prevent the applicant from making any reasonable use of the subject property, the applicant may apply for an exception pursuant to this section. The application must accompany a development permit application through the city's review and decision process.

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

a. The applicant demonstrates that the application of this chapter will deny all reasonable use of the subject property otherwise allowed by applicable law;

b. The development activities involve the least intrusion into and disruption of the critical area necessary to allow a reasonable use of the subject property;

c. The development activities will not cause or result in damage to properties other than the subject property and will not endanger the public health, safety or welfare;

d. The applicant's inability to make reasonable use of the subject property has not resulted from any of the following:

(1) Prior subdivision or segregation of the subject property, or changes to the boundaries of the subject property through a boundary line adjustment or otherwise; or

(2) Prior actions taken in violation of this chapter or any local, state, or federal law or regulation;

e. No other reasonable use of the property has less impact on the critical area;

f. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant after the effective date of the ordinance codified in this chapter, or its predecessor; and

g. Mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of this chapter.

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

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

C. Director Review. The director shall review the application. The director shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the criteria in subsection (A) of this section.

D. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application. [Ord. 06-0244 § 59 (Exh. 1).]

Article IV. Critical Areas Report**18.55.190 Critical areas reports – Requirements.**

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

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

C. Critical Areas Report Contents. Requirements for critical areas reports are available from the director. In addition, the applicant shall provide any additional known information pertaining to the critical area(s) on the subject property and adjacent properties. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.200 Mitigation requirements.

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

B. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, or to prevent risk from a hazard posed by a critical area. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.210 Mitigation sequencing.

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

A. Avoiding the impact altogether by not taking a certain action or parts of actions;

B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and/or

E. Compensating for the impact by replacing or providing substitute resources or environments.

Mitigation for individual actions may include a combination of the above measures. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.220 Mitigation plan requirements.

When mitigation is required, the applicant shall submit for approval by the city a mitigation plan as part of the critical areas report. Mitigation plan requirements are available from the director. [Ord. 06-0244 § 59 (Exh. 1).]

Article V. Unauthorized Alterations and Enforcement**18.55.230 Unauthorized critical area alterations and enforcement.**

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

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

C. Minimum Performance Standards for Restoration.

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

a. The historic structural and functional values shall be restored, including water quality and habitat functions;

b. The historic soil types and configuration shall be replicated;

c. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities; and

d. The historic functions and values should be replicated at the location of the alteration.

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

E. Monitoring. Monitoring shall be required for five years unless otherwise determined by the director. A performance and/or maintenance bond of 125 percent of the estimated cost of restoring the functions and values of the critical area shall be posted to assure that all work or actions are satisfactorily completed or maintained in accordance with the approved plans, specifications, permit or approval requirements, and applicable regulations, and to assure that all work or actions will be completed. [Ord. 06-0244 § 59 (Exh. 1).]

Article VI. General Critical Area Protective Measures

18.55.250 Notice on title.

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

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

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

C. The applicant shall submit proof that the notice has been filed for public record before the city approves any development proposal for the property or, in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.260 Critical area tracts.

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

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

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

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

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

D. The city shall determine at the city's discretion that any required critical area tract be dedicated to the city, held in an undivided interest by each owner of a building lot within the development with the ownership interest passing with the ownership of the lot, or held by an incorporated homeowner's association or other legal entity (such as a land trust, which assures the ownership, maintenance, and protection of the tract). [Ord. 06-0244 § 59 (Exh. 1).]

18.55.270 Building setbacks.

Unless otherwise provided, buildings and other structures shall be set back a distance of 15 feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are

required. Structures that may extend into or be located in the required setback are listed in KMC 18.30.170. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.280 Bonds to ensure mitigation, maintenance, and monitoring.

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

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

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

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

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

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

G. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the city may

demand payment of any financial guarantees or require other action authorized by the city code or any other law.

H. Any funds recovered pursuant to this section shall be used to complete the required mitigation. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.290 Critical area inspections.

Reasonable access to the site shall be provided to the city, state, and federal agency review staff for the purpose of inspections of the critical area during any proposal review, restoration, emergency action, or monitoring period. [Ord. 06-0244 § 59 (Exh. 1).]

Article VII. Wetlands – Designation and Rating

18.55.300 Designation and rating of wetlands.

A. Designating Wetlands. Wetlands are those areas, designated in accordance with the Washington State Wetland Identification and Delineation Manual (1997), that are inundated or saturated by surface or ground water 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. All areas within the city meeting the wetland designation criteria in the Wetland Identification and Delineation Manual, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

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

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

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

(1) Documented habitat for federal or state listed endangered or threatened fish, animal, or plant species; or

(2) Wetlands listed as high quality habitats in the Natural Heritage Information System; or

(3) Wetlands with irreplaceable ecological functions, including sphagnum bogs and fens or natural forested swamps; or

(4) Wetlands of exceptional local significance, specifically those wetlands proximal to and influenced by the main stem of Swamp Creek, the Sammamish River, or Lake Washington.

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

(1) Wetlands that have significant functions that may not be adequately replicated through creation or restoration; or

(2) Wetlands associated with Type 2 or 3 streams; or

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

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

(5) Wetlands containing a forested wetland class.

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

C. Buffer Areas.

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

2. Required buffer widths (KMC 18.55.320(F)) shall reflect the sensitivity of the particular critical area and resource or the risks associated with development and, in those circumstances permitted by these regulations, the type and intensity of human activity and site design proposed to be conducted on or near the critical area. [Ord. 06-0244 § 59 (Exh. 1).]

Article VIII. Wetlands – Additional Report Requirements

18.55.310 Critical areas report.

Requirements for critical areas reports for wetlands are available from the director. [Ord. 06-0244 § 59 (Exh. 1).]

Article IX. Wetlands – Performance Standards

18.55.320 Performance standards – General requirements.

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

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

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

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

1. Adversely affect water quality;
2. Adversely affect fish, wildlife, or their habitat;
3. Have an adverse effect on drainage and/or stormwater detention capabilities;
4. Lead to unstable earth conditions or create an erosion hazard or contribute to scouring actions;
5. Be materially detrimental to any other property or the city as a whole; or
6. Have adverse effects on any other critical areas.

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

F. Wetland Buffers.

1. Wetland buffers shall be established as follows:

Wetland Type	Buffer Width (Feet)
Class 1	150
Class 2	100
Class 3	60

2. Measurement of Wetland Buffers. Wetland buffers shall be measured from the wetland edge as delineated and marked in the field using the 1997 Washington State Wetland Identification and Delineation Manual (Ecology).

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

a. A larger buffer is needed to protect other critical areas;

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

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

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

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

(2) It will not reduce wetland functions or values;

(3) The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit

from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

(4) The total area contained in the buffer after averaging is no less than that which would be contained within the standard buffer; and

(5) For Class 1 and 2 wetlands, the buffer width shall not be reduced by more than 20 percent in any one place. For Class 3 wetlands, the buffer width shall not be reduced to less than 50 feet in any one place.

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

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

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

(1) It will provide an overall improvement in water quality;

(2) It will provide an overall enhancement to fish, wildlife, or their habitat;

(3) It will provide a net improvement in drainage and/or stormwater detention capabilities;

(4) It will not lead to unstable earth conditions or create an erosion hazard;

(5) It will not be materially detrimental to any other property or the city as a whole; and

(6) All exposed areas are stabilized with native vegetation, as appropriate.

d. Buffer Enhancement Plan. As part of the buffer reduction request, the applicant shall submit a buffer enhancement plan prepared by a qualified professional and fund a review of the plan by the city's wetland consultant. The plan shall

assess the habitat, water quality, stormwater detention, ground water recharge, shoreline protection, and erosion protection functions of the buffer; assess the effects of the proposed modification on those functions; and address the six criteria listed in subsection (F)(4)(c) of this section.

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

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

a. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife;

b. Passive Recreation. Passive recreation facilities designed in accordance with an approved critical areas report, including:

(1) Walkways and trails; provided, that those pathways that are generally parallel to the perimeter of the wetland shall be located in the outer 25 percent of the buffer area;

(2) Walkway and trail surfaces shall be made of pervious materials except that public multipurpose trails may be of impervious materials if they meet all other requirements, including water quality;

(3) Wildlife viewing structures; and

(4) Fishing access areas;

c. Stormwater Management Facilities. Grass-lined swales and dispersal trenches may be located in the outer 25 percent of the buffer area of Class 2 and 3 wetlands only. All other surface water management facilities are not allowed within the buffer area.

7. Building Setback. A building setback from the buffer edge is required per KMC 18.55.270. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.330 Performance standards – Mitigation requirements.

A. Mitigation Shall Achieve Equivalent or Greater Ecological Functions. Mitigation for alterations to wetlands and buffers shall achieve equivalent or greater ecologic functions than exist in the impacted wetland and buffer. Mitigation plans shall be generally consistent with the Department

of Ecology Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals, 1994, as revised.

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

1. The lost wetland provides minimal functions as determined by a site-specific function assessment and the proposed mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal watershed assessment plan or protocol; or

2. Out-of-kind replacement will best meet formally identified regional goals, such as replacement of historically diminished wetland types.

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

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

1. Restoring wetlands on upland sites that were formerly wetlands.

2. Creating wetlands in upland areas, considering degraded areas first.

3. Enhancing significantly degraded wetlands.

4. Preserving high-quality wetlands that are under imminent threat.

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

1. There are no reasonable on-site or in-subdrainage basin opportunities, or on-site and in-subdrainage basin opportunities do not have a high likelihood of success due to development pressures, adjacent land uses, or on-site buffers or connectivity are inadequate;

2. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and

3. Off-site locations shall be in the same subdrainage basin unless established regional or watershed goals for water quality, flood or conveyance, habitat or other wetland functions have been established and strongly justify location of mitigation at another site.

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

G. Mitigation Ratios.

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

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

2. Increased Replacement Ratio. The director may increase the ratios under the following circumstances:

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

b. A significant period of time will elapse between impact and replication of wetland functions; or

c. Mitigation will occur off-site versus on-site; or

d. Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or

e. The impact was an unauthorized impact.

3. Decreased Replacement Ratio.

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

(1) The applicant's qualified biologist provides documentation that increases the certainty of success of the proposed wetland restoration or creation. At a minimum, this documentation shall include ground water monitoring in the area of proposed restoration or creation in the early growing season over a sufficient period of time to determine that there is a high probability of creating or restoring wetlands in that location; or

(2) Proposed mitigation will result in a higher functioning wetland (higher class) relative to the functions of the wetland being impacted; or

(3) The mitigation is successfully installed for a period of one year prior to the wetland being impacted. Successful installation shall be determined by a qualified biologist.

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

H. Wetlands Enhancement as Mitigation.

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

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

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

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

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

3. Preference shall be given to mitigation banks that implement restoration actions that have been identified formally by an adopted shoreline restoration plan or the Lake Washington/Cedar/Sammamish (WRIA 8) Watershed Chinook Salmon Conservation Plan. [Ord. 06-0244 § 59 (Exh. 1).]

Article X. Streams – Designation and Rating

18.55.400 Designation and rating of streams.

A. Stream Classification. Streams are waterbodies with a defined bed and banks and demonstrable flow of water. Streams shall be designated Type 1, Type 2, Type 3, and Type 4 according to the criteria in this section.

1. Type 1 streams are those streams identified as “shorelines of the state” under Chapter 90.58 RCW, including the Sammamish River and the main stem of Swamp Creek.

2. Type 2 streams are those streams that are:

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

3. Type 3 streams are those streams that are:

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

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

B. Ditches. Ditches are artificial drainage features created in uplands through purposeful human action, such as irrigation and drainage ditches, grass-lined swales, and canals. Purposeful creation must be demonstrated through documentation, photographs, statements and/or other evidence. Ditches are excluded from regulation as streams under this section. Artificial drainage features with documented fish usage are regulated as streams.

Drainage setbacks are required as per the city’s surface water runoff policy (Chapter 13.35 KMC). [Ord. 06-0244 § 59 (Exh. 1).]

Article XI. Streams – Additional Report Requirements

18.55.410 Critical areas report.

Requirements for critical areas reports for streams are available from the director. [Ord. 06-0244 § 59 (Exh. 1).]

Article XII. Streams – Performance Standards

18.55.420 Performance standards – General.

A. Establishment of Stream Buffers. The establishment of buffer areas shall be required for all development proposals and activities in or adjacent to streams. The purpose of the buffer shall be to protect the integrity, function, and value of the stream and provide habitat for heron and other wildlife. Buffers shall be protected during construction by placement of a temporary barricade, on-site notice for construction crews of the presence of the stream, and implementation of appropriate erosion and sedimentation controls. Native vegetation removal or disturbance is not allowed in established buffers.

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

B. Stream Buffers.

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

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

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

3. Increased Stream Buffer Widths. The director shall require increased buffer widths in accordance with the recommendations of a quali-

fied professional and the best available science on a case-by-case basis when a larger buffer is necessary to protect stream functions and values based on site-specific characteristics. This determination shall be based on one or more of the following criteria:

a. A larger buffer is needed to protect other critical areas;

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

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

Stream Type	Maximum Buffer Reduction	Minimum Buffer Width (Feet)
Type 1 and Little Swamp Creek	25 percent	112.5 feet
Type 2	25 percent	75 feet
Type 3	25 percent	37.5 feet
Type 4	25 percent	18.75 feet

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

(1) It will provide an overall improvement in water quality;

(2) It will provide an overall enhancement to fish, wildlife, or their habitat;

(3) It will provide a net improvement in drainage and/or stormwater detention capabilities;

(4) It will not lead to unstable earth conditions or create an erosion hazard;

(5) It will not be materially detrimental to any other property or the city as a whole; and

(6) All exposed areas are stabilized with native vegetation, as appropriate.

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

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

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

a. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife;

b. Passive Recreation. Passive recreation facilities designed in accordance with an approved critical areas report, including:

(1) Walkways and trails; provided, that those pathways that are generally parallel to the perimeter of the stream shall be located in the outer 25 percent of the buffer area;

(2) Walkway and trail surfaces shall be made of pervious materials except that public multipurpose trails may be of impervious materials if they meet all other requirements, including water quality;

(3) Wildlife viewing structures; and

(4) Fishing access areas.

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

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

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

1. All crossings use bridges or other construction techniques which do not disturb the stream bed or bank, except that bottomless culverts or other appropriate methods demonstrated to provide fisheries protection may be used for Type 2 or 3 streams if the applicant demonstrates that such methods and their implementation will pose no harm to the stream or inhibit migration of fish;

2. All crossings are constructed during the summer low flow and are timed to avoid stream disturbance during periods when use is critical to salmonids;

3. Crossings do not occur over salmonid spawning areas unless the city determines that no other possible crossing site exists;

4. Bridge piers or abutments are not placed within the Federal Emergency Management Agency (FEMA) floodway or below the ordinary high water mark;

5. Crossings do not diminish the flood-carrying capacity of the stream;

6. Underground utility crossings are laterally drilled and located at a depth of four feet below the maximum depth of scour for the base flood predicted by a civil engineer licensed by the state of Washington. Temporary bore pits to perform such crossings may be permitted within the stream buffer established in this chapter; and

7. Crossings are minimized and serve multiple purposes and properties whenever possible.

D. Stream Relocations.

1. Stream relocations may be allowed only for:

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

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

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

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

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

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

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

- c. There will be no increase in velocity;

- d. There will be no interbasin transfer of water;

- e. There will be no increase in the sediment load;

- f. There is an overall increase in habitat function and value for salmonids and other fish;

- g. Requirements set out in the mitigation plan are met;

- h. The relocation conforms to other applicable laws; and

- i. All work will be carried out under the direct supervision of a qualified biologist.

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

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

1. The project results in an increase in stream function and values;

2. The restoration is sponsored by a public agency with a mandate to do such work;

3. The restoration is not associated with mitigation of a specific development proposal;

4. The restoration is limited to removal of nonnative vegetation and enhancement of riparian vegetation, placement of rock weirs, log controls, spawning gravel and other specific salmonid habitat improvements;

5. The restoration only involves the use of hand labor and light equipment; or the use of helicopters, cranes, or aerial equipment which deliver supplies to the project site; provided, that they have no contact with critical areas or their buffers; and

6. The restoration is performed under the direction of a qualified biologist. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.430 Performance standards – Mitigation requirements.

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

B. Alternative Mitigation for Stream Areas. The performance standards set forth in this section may be modified at the city's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected subdrainage basin as a result of alternative mitigation measures. [Ord. 06-0244 § 59 (Exh. 1).]

Article XIII. Fish and Wildlife Habitats of Importance – Designation

18.55.500 Designation of fish and wildlife habitats of importance.

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

1. Documented presence of species listed by the federal government or the state of Washington as endangered or threatened; or
2. Heron rookeries or active nesting trees; or
3. Class 1 wetlands as defined in these regulations; or
4. Type 1 streams as defined in these regulations.

5. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292).

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

C. The city may accept and consider nominations for habitat areas and species to be designated as fish and wildlife habitats of importance. Nominations will be accepted on an annual basis. Guidelines for nomination are available from the director. [Ord. 06-0244 § 59 (Exh. 1).]

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

18.55.510 Critical areas report.

Requirements for critical areas reports for fish and wildlife habitats of importance are available from the director. [Ord. 06-0244 § 59 (Exh. 1).]

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

18.55.520 Performance standards – General requirements.

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

1. All habitat management plans shall be prepared in consultation with the state Department of Fish and Wildlife. Habitat management plans for critical species listed as endangered or threatened shall be approved by the Department of Fish and Wildlife.

2. Habitat Management Plan Content Requirements. Based on the characteristics of the site and information submitted by the applicant, the director may require that all or a portion of the following be included in a habitat management plan:

a. A map drawn to scale or survey showing the following information:

(1) All lakes, ponds, streams, and wetlands on, or adjacent to, the subject property, including the name (if named), ordinary high water mark of each, and the stream type or wetland class consistent with this chapter.

(2) The location and description of the fish and wildlife habitats of importance on the subject property, as well as any potential fish and wildlife habitats of importance within 200 feet of the subject property as shown on maps maintained by the city.

(3) The location of any observed evidence of use by a listed species.

b. An analysis of how the proposed development activities will affect the fish and wildlife habitats of importance and listed species.

c. Provisions to reduce or eliminate the impact of the proposed development activities on any fish and wildlife habitats of importance and listed species.

d. The habitat management plan should also address the following issues:

(1) Prohibition or limitation of development activities within the fish and wildlife habitats of importance;

(2) Establishment of a buffer around the fish and wildlife habitat conservation area;

(3) Retention of certain vegetation or areas of vegetation critically important to the listed species;

(4) Limitation of access to the fish and wildlife habitats of importance and buffer;

(5) Seasonal restrictions on construction activities on the subject property;

(6) Clustering of development on the subject property; and

(7) The preservation or creation of a habitat area for the listed species.

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

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

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

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

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

G. Buffers.

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

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

2. Seasonal Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions, as determined by the Washington State Department of Fish and Wildlife, may apply. Larger buffers may be required and activities may be further restricted during the specified season. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.530 Performance standards – Specific habitats.

A. Endangered, Threatened, and Sensitive Species.

1. No development shall be allowed within a fish and wildlife habitat of importance or buffer with which state or federally endangered, threatened, or sensitive species have a primary association.

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

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

occur prior to approval of the habitat management plan by the city and the Washington State Department of Fish and Wildlife.

B. Great Blue Heron Rookery.

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

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

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

C. Anadromous Fish.

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

a. Activities shall be timed to occur only during the allowable work window as designated by the Washington State Department of Fish and Wildlife for the applicable species;

b. An alternative alignment or location for the activity is not feasible;

c. The activity is designed so that it will provide an overall improvement in the functions or values of the fish habitat or other critical areas; and

d. Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical areas report.

2. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be

provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.

3. Fills, when authorized by the city's shoreline management master program, shall not adversely impact anadromous fish or their habitat or shall mitigate any unavoidable impacts, and shall only be allowed for a water-dependent use. [Ord. 06-0244 § 59 (Exh. 1).]

Article XVI. Geologically Hazardous Areas – Designation

18.55.600 Purpose.

The primary purpose of geologically hazardous area regulations is to avoid and minimize potential impacts to life and property from geologic hazards. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.610 Designation of geologically hazardous areas.

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

A. Erosion hazard;

B. Landslide hazard;

C. Seismic hazard; and

D. Other geological events including mass wasting, debris flows, rock falls, and differential settlement. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.620 Designation of specific hazard areas.

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

B. Landslide Hazard Areas. Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil,

slope (gradient), slope aspect, structure, hydrology, or other factors. Examples of these may include, but are not limited to, the following:

1. Areas of historic failures, such as:
 - a. Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "severe" limitation for building site development; or
 - b. Areas designated as Quaternary slumps, earthflows, mudflows, or landslides on maps published by the U.S. Geological Survey or state Department of Natural Resources;
 2. Areas with all three of the following characteristics:
 - a. Slopes steeper than 15 percent; and
 - b. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying relatively impermeable sediment; and
 - c. Springs or ground water seepage.
 3. Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or that are underlain or covered by mass wastage debris of that epoch;
 4. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;
 5. Areas potentially unstable because of rapid stream incision, stream bank erosion, and undercutting by wave action;
 6. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and
 7. Areas with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet. A slope is delineated by establishing its toe and measured by averaging the inclination over at least 10 feet of vertical relief.
- C. Seismic Hazard Areas. Seismic hazard areas are locations subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:
1. The magnitude of an earthquake;
 2. The distance from the source of an earthquake;
 3. The type of thickness of geologic materials at the surface; and

4. The type of subsurface geologic structure.

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

D. Other Hazard Areas. Geologically hazardous areas shall also include areas determined by the director to be susceptible to other geological events including mass wasting, debris flows, and differential settlement. [Ord. 06-0244 § 59 (Exh. 1).]

Article XVII. Geologically Hazardous Areas – Report Requirements

18.55.630 Critical areas report.

A critical areas report shall be required for all proposed alterations of properties that are located within 200 feet of any geologically hazardous area. Requirements for critical areas reports for geologically hazardous areas are available from the director. [Ord. 06-0244 § 59 (Exh. 1).]

Article XVIII. Geologically Hazardous Areas – Performance Standards

18.55.640 Performance standards – General requirements.

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

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

B. Critical Facilities Prohibited. Critical facilities shall not be sited within geologically hazardous areas unless there is no other practical alternative. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.650 Performance standards – Specific hazards.

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

1. Buffer Required for Erosion Hazard Areas. No buffer is required from an area categorized as only an erosion hazard area.

2. Buffer Required for Landslide Hazard Areas. A buffer shall be established from all edges of landslide hazard areas. The size of the buffer shall be determined by the director to eliminate or minimize the risk of property damage, death or injury resulting from landslides caused in whole or part by the development, based upon review of and concurrence with a critical area report prepared by a qualified professional.

a. Minimum Buffer. The minimum buffer shall be equal to the height of the slope, as measured from the toe to the top, or 50 feet, whichever is greater.

b. Buffer Reduction. The buffer may be reduced to a minimum of 10 feet when a qualified professional demonstrates to the director's satisfaction based upon review of a special study that the reduction will adequately protect the proposed development, adjacent developments and uses and the subject critical area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Seasonal Restriction. Clearing shall be allowed only from May 1st to October 1st of each year; provided, that the city may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions, except that timber harvest, not including brush clearing or stump removal, may be allowed pursuant to an approved forest practice permit issued by the city or the Department of Natural Resources.

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

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

a. Conveyed via continuous storm pipe downslope to a point where there are no erosion hazard areas downstream from the discharge;

b. Discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state; or

c. Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope.

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

a. Land that is located wholly within a landslide hazard area or its buffer may not be subdivided. Land that is located partially within a landslide hazard area or its buffer may be divided; provided, that each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard or its buffer; and

b. Access roads and utilities may be permitted within a landslide hazard area and associated buffer if the city determines that no other feasible alternative exists.

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

11. Previously Graded Slopes. Slopes meeting the criteria of a landslide hazard area based on slope steepness and height that were created through previous legal grading activities may be regraded. Any such slope that meets the criteria of a landslide hazard following site development shall be subject to all requirements for landslide hazard areas.

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

C. Other Hazard Areas. Activities on sites containing or adjacent to other geologically hazardous areas shall meet the standards of KMC 18.55.640, Performance standards – General requirements. [Ord. 06-0244 § 59 (Exh. 1).]

Article XIX. Flood Hazard Areas

18.55.700 Flood hazard areas.

A. Flood hazard areas consist of the following components:

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

B. The city of Kenmore 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 of Kenmore, in which case these future flow projections shall be used. In areas where the flood insurance study for the city of Kenmore includes detailed base flood calculations, those calculations may be used until projections of future flows are completed and approved by the city of Kenmore. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.710 Flood fringe – Development standards and permitted alterations.

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

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

B. All elevated construction shall be designed and certified by a professional structural engineer licensed by the state of Washington and shall be approved by the city of Kenmore prior to construction.

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

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

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

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

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

NOTICE

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

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

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

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

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

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

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

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

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

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

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

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

a. The applicant shall provide certification by a professional civil or structural engineer licensed by the state of Washington that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impacts, uplift forces and other factors associated with the base flood. After construction, the engineer shall certify that the permitted work conforms with the approved plans and specifications; and

b. Approved building permits for floodproofed nonresidential structures shall contain a statement notifying applicants that flood insurance premiums shall be based upon rates for structures which are one foot below the floodproofed level;

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

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

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

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

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

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

a. A new mobile home park;

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

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

H. Utilities shall meet the following requirements:

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

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

3. Sewage and agricultural waste storage facilities shall be floodproofed to the flood protection elevation;

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

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

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

J. Prior to approving any permit for alterations in the flood fringe, the city of Kenmore shall determine that all permits required by state or federal law have been obtained. [Ord. 06-0244 § 59 (Exh. 1).]

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

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

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

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

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

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

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

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

3. Substantial improvements of existing residential structures meeting the requirements for new residential structures in KMC 18.55.710.

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

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

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

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

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

G. Utilities may be allowed within the zero-rise floodway if the city of Kenmore 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 the Seattle/King County department of public health; and

2. Construction of sewage treatment facilities shall be prohibited.

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

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

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

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

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

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

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

5. Boat launches and related recreation structures;

6. Bridge piers and abutments; and

7. Other fisheries enhancement or stream restoration projects. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.730 FEMA floodway – Development standards and permitted alterations.

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

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

C. New residential or nonresidential structures are prohibited within the FEMA floodway.

D. Substantial improvements of existing residential structures in the FEMA floodway, meeting the requirements of WAC 173-158-070, as amended, are presumed to produce no increase in base flood elevation and shall not require a special study to establish this fact. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.740 Flood hazard areas – Certification by engineer or surveyor.

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

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

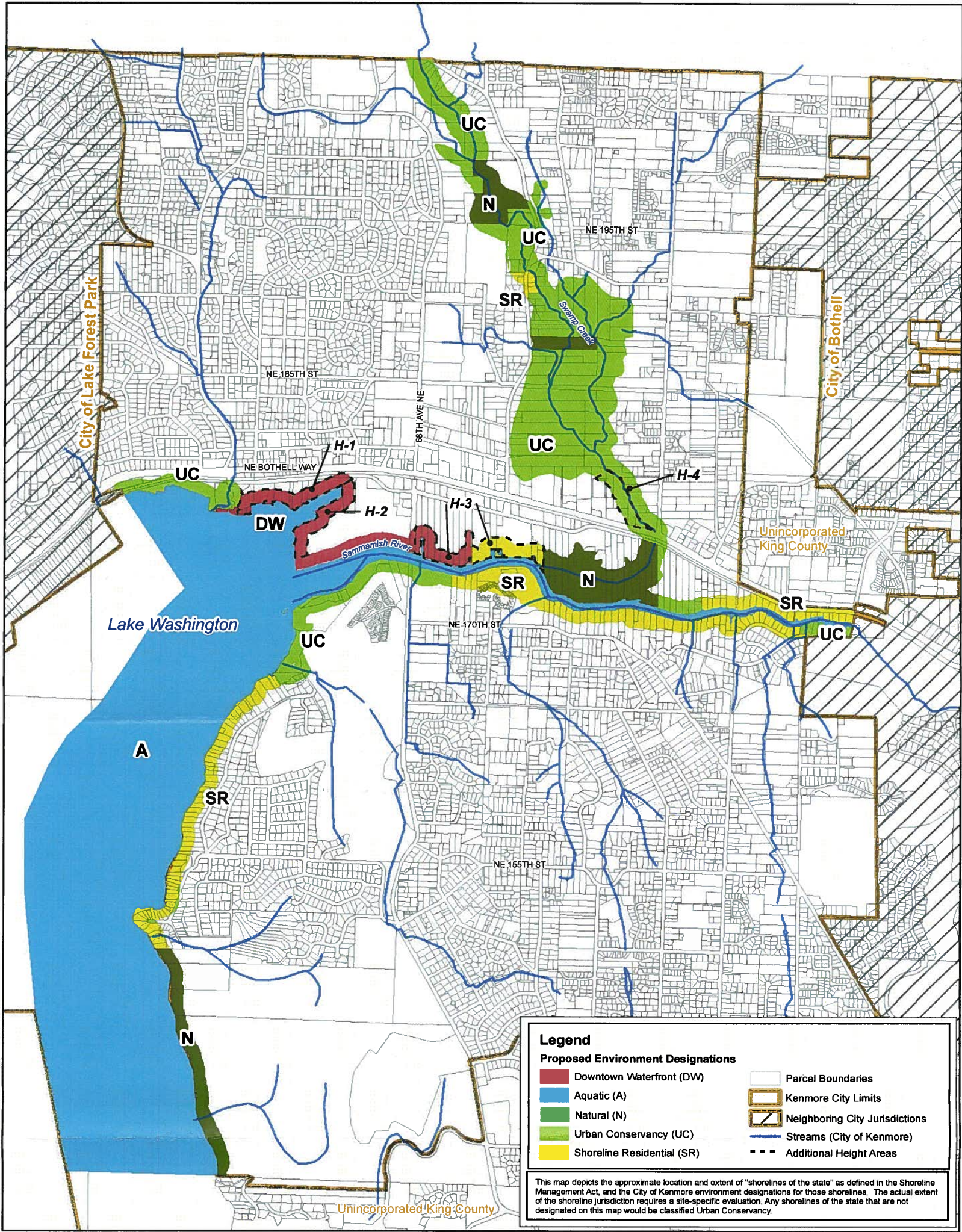
2. The actual as-built elevation to which the structure is floodproofed, if applicable.

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

C. The city of Kenmore shall maintain the certifications required by this section for public inspection. [Ord. 06-0244 § 59 (Exh. 1).]

18.55.750 Channel relocation and stream meander areas.

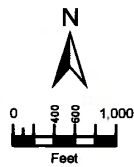
No structure shall be allowed which would be at risk due to channel relocation or stream meander until the promulgation of a public rule. [Ord. 06-0244 § 59 (Exh. 1).]



Shoreline Master Program Update City of Kenmore



ESA Adolfson



Map 1
Shoreline Environment Designations

SOURCE: King County, (2002)2007; City of Kenmore, 2007; ESA Adolfson, 2008

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Exhibit 2

Chapter 16.4090
FLOOD DAMAGE PREVENTION

16.4090.010 Findings of fact.

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

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss. {Ord. 98-0045 § 1.}

16.4090.020 Statement of purpose.

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

- A. Protect human life and health;
- B. Minimize expenditure of public money and costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. {Ord. 98-0045 § 2.}

16.4090.030 Methods of reducing flood losses.

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

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or may increase flood hazards in other areas. [~~Ord. 98-0045 § 3.~~]

16.4090.040 Definitions.

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

- A. "Appeal" means a request for a review of the interpretation of any provision of this chapter or a request for a variance.
- B. "Area of shallow flooding" means a designated AO, or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.
- C. "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters "A" or "V".
- D. "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters "A" or "V".
- E. "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
- F. "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

- G. "Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone VI through V30, VE or V.
- H. "Critical facility" means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.
- I. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.
- J. "Elevated building" means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
- K. "Existing manufactured home park or subdivision" means a manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.
- L. "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- M. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
1. The overflow of inland or tidal waters; and/or
 2. The unusual and rapid accumulation of runoff of surface waters from any source.
- N. "Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- O. "Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

- P. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- Q. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter found in KMC 16.4090.160(A)(2).
- R. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
- S. "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- T. "New construction" means structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter.
- U. "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the adopted floodplain management regulations.
- V. "Recreational vehicle" means a vehicle which is:
1. Built on a single chassis;
 2. Four-hundred square feet or less when measured at the largest horizontal projection;
 3. Designed to be self-propelled or permanently towable by a light duty truck; and
 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- W. "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it

include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation of the property or accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

X. "Structure" means a walled and roofed building, including a gas or liquid storage tank that is principally above ground.

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

Z. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

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

The term does not, however, include either:

3. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
4. Any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

AA. "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

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

{Ord. 98-0045 § 4.}

16.4090.050 Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city of Kenmore. {Ord. 98-0045 § 5.}

16.4090.060 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Kenmore," as amended, with an accompanying Flood Insurance Map (FIRM), as amended, 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 16.4090.130(B) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under KMC 16.4090.130(B). ~~{Ord. 98-0045 § 6.}~~

16.4090.070 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. 98-0045 § 7.}~~

16.4090.080 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. 98-0045 § 8.}~~

16.4090.090 Interpretation.

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

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes. ~~{Ord. 98-0045 § 9.}~~

16.4090.100 Warnings and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city of Kenmore, any officer or employee thereof, or the Federal

Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. ~~{Ord. 98-0045 § 10.}~~

16.4090.110 Establishment of development permit.

A. Development Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in KMC 16.4090.060. The permit shall be for all structures including manufactured homes, as set forth in KMC 16.4090.040, and for all development including fill and other activities, also as set forth in KMC 16.4090.040.

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

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
2. Elevation in relation to mean sea level to which any structure has been floodproofed;
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in KMC 16.4090.160(B); and
4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development. ~~{Ord. 98-0045 § 11.}~~

16.4090.120 Designation of the local administrator.

The director is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. ~~{Ord. 98-0045 § 12.}~~

16.4090.130 Duties and responsibilities of the local administrator.

Duties of the director shall include, but not be limited to:

A. Permit Review.

1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;
2. Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required; and

3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of KMC 16.4090.170 (A) are met.

B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with KMC 16.4090.060, 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 16.4090.160 and 16.4090.170.

C. Information to be Obtained and Maintained.

1. Where base flood elevation data is provided through the Flood Insurance Study or required as in subsection (B) of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

2. For all new or substantially improved floodproofed structures:

a. Verify and record the actual elevation (in relation to mean seal level); and

b. Maintain the floodproofing certifications required in KMC 16.4090.110(B)(3).

3. Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Alteration of Watercourses.

1. Notify adjacent communities and the department of ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

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

E. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in KMC 16.4090.140. ~~{Ord. 98-0045 § 13.}~~

16.4090.140 Variance procedure.

A. Appeal to Hearings Examiner.

1. The hearings examiner shall hear and decide appeals and requests for variances from the requirements of this chapter.
2. The hearings 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 hearings 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 hearings examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

- k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
 5. Upon consideration of the factors of subsection (A)(4) of this section and the purposes of this chapter, the hearings examiner may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
 6. The director shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.
- B. Conditions for Variances.
1. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections (A)(4)(a) through (A)(4)(k) of this section have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
 2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.
 3. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
 4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 5. Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 6. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated

residential neighborhoods. As such, variances from the flood elevations should be quite rare.

7. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (B)(1) of this section and otherwise complies with KMC 16.4090.150(A) and (B).

8. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. ~~{Ord. 98-0045 § 14.}~~

16.4090.150 General standards.

In all areas of special flood hazards, the following standards are required:

A. Anchoring.

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

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

B. Construction Materials and Methods.

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

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

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

C. Utilities.

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

2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

E. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (KMC 16.4090.130(B)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates. ~~{Ord. 98-0045 § 15.}~~

16.4090.160 Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in KMC 16.4090.060 or 16.4090.130(B), the following provisions are required:

A. Residential Construction.

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation.
2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - b. The bottom of all openings shall be no higher than one foot above grade; and
 - c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.
- B. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
 - 1. Be floodproofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - 3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in KMC 16.4090.130(C)(2);
 - 4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (A)(2) of this section;
 - 5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below).
- C. Manufactured Homes.
 - 1. All manufactured homes to be placed or substantially improved within Zones A1 through A30, AH, and AE on the community's FIRM on sites:
 - a. Outside of a manufactured home park or subdivision;
 - b. In a new manufactured home park or subdivision;
 - c. In an expansion to an existing manufactured home park or subdivision; or

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

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

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

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

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

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

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

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

3. Meet the requirements of subsection (C) of this section and the elevation and anchoring requirements for manufactured homes. {Ord. 98-0045 § 16.}

16.4090.170 Floodways.

Located within areas of special flood hazard established in KMC 16.4090.060 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

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

B. Construction or reconstruction of residential structures is prohibited within designated floodways, except for:

1. Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and
2. Repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either:
 - a. Before the repair, or reconstruction is started, or
 - b. If the structure has been damaged, and is being restored, before the damage occurred.

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

C. If subsection (A) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of KMC 16.4090.150 through 16.4090.210. [~~Ord. 98-0045 § 17.~~]

16.4090.180 Encroachments.

The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point. [~~Ord. 98-0045 § 18.~~]

16.4090.190 Standards for shallow flooding areas (AO zones).

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

- A. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified).
- B. New construction and substantial improvements of nonresidential structures within AO zones shall either:
 1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or

2. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in KMC 16.4090.160(B)(3).

C. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

D. Recreational vehicles placed on sites within AO zones on the community's FIRM shall either:

1. Be on the site for fewer than 180 consecutive days;
2. Be fully licensed and ready for highway use, on their wheels or jacking systems, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
3. Meet the other applicable requirements of this chapter, and the elevation and anchoring requirements for manufactured homes. [Ord. 98-0045 § 19.]

16.40.200 Coastal high hazard areas.

Located within areas of special flood hazard established in KMC 16.40.060 are Coastal High Hazard Areas, designated as Zones V1 through V30, VE and/or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this chapter, the following provisions shall also apply:

A. All new construction and substantial improvements in Zones V1 through V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:

1. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated one foot or more above the base flood level; and
2. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

B. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subsections (A)(1) and (A)(2) of this section.

- C. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1 through V30 and VE, and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.
- D. All new construction shall be located landward of the reach of mean high tide.
- E. Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
1. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
 2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
- F. If breakaway walls are utilized, such enclosed space shall be usable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
- G. Prohibit the use of fill for structural support of buildings.
- H. Prohibit manmade alteration of sand dunes which would increase potential flood damage.
- I. All manufactured homes to be placed or substantially improved within Zones V1 through V30, V, and VE on the community's FIRM on sites:
1. Outside of a manufactured home park or subdivision;
 2. In a new manufactured home park or subdivision;
 3. In an expansion to an existing manufactured home park or subdivision; or
 4. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

~~_____ shall meet the standards of subsections (A) through (H) of this section, and manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones V1 through V30, V, and VE on the FIRM shall meet the requirements of KMC 16.40.160(C).~~

~~J. Recreational vehicles placed on sites within Zones V1 through V30, V, and VE on the community's FIRM shall either:~~

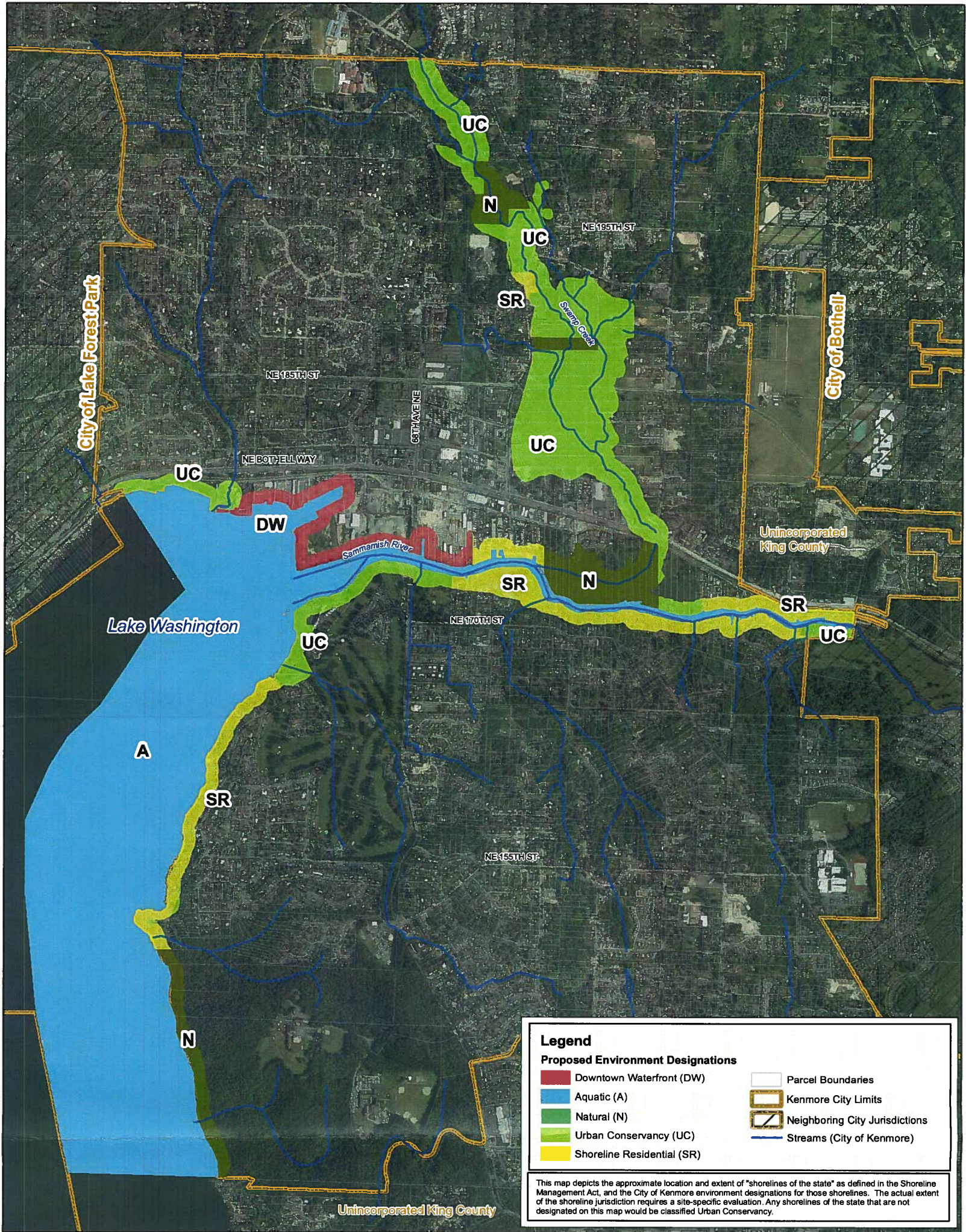
~~1. Be on the site for fewer than 180 consecutive days;~~

~~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 KMC 16.40.110(A) and subsections (A) through (H) of this section. [Ord. 98-0045 § 20.]~~

16.40.21090.200 Critical facility.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year) at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible. [Ord. 98-0045 § 21.]



Shoreline Master Program Update City of Kenmore			
			Shoreline Environment Designations Map
			SOURCE: King County, (2002)2007; City of Kenmore, 2007; ESA Adolfson, 2008

G:\ENVIR IMPACTS\2007 Projects\207204_KenmoreSMP\05_GRAPHICS_GIS_MODELING\GIS\CompPlan_SED.mxd (MJL; 09/06/2011)

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Discussion and Consideration of a City of Kenmore Transportation Benefit District			February 13, 2012
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Engineering	Ron Loewen	Steve Lewis, Lochner	
COST OF PROPOSAL: City Staff to date: 15 hours Contract to date: \$14,300		ACCOUNT NUMBER: 01 32 5401	
AMOUNT BUDGETED FOR PLAN: \$30,000.		NAME AND FUND #: General Fund - Engineering	
ATTACHMENT(S) TO AGENDA PACKET ITEM: • Attachment 1 - Report from Lochner on Transportation Benefit District (TBD) • Attachment 2 - July 12, 2010 City Council Agenda Bill • Attachment 3 – House Bill 213.3/11 • Attachment 4 – Frequently Asked Questions: Transportation Benefit District • Attachment 5 – Frequently Asked Questions: Street Maintenance Utility District • Attachment 6 – City of Kenmore Functional Classification of Roadways • Attachment 7 – City of Kenmore TBD Regional Arterials • Attachment 8 – City of Kenmore Congested Arterials			
SUMMARY STATEMENT: During the past year City Staff have initiated discussions regarding the creation of a Transportation Benefit District. These discussions have responded to questions and allowed for some thought on the benefit of a district and the potential projects. The last discussion, February 14, 2011 described the results of the 2010 Regular Session of the Washington State Legislature which passed and the Governor signed an amendment related to transportation benefit districts (TBD) (RCW 36.73). The amendment included changes that clarify how projects can qualify to be included in a TBD, see Attachment 2 the July 12, 2010 Agenda Bill. Based on these changes and discussion by the City Council on July 12, 2010, City Staff was directed to proceed with the preparation of reports and documents related to the creation of a TBD. Attachment 1 is a report from Mr. Steve Lewis describing the steps necessary to create a TBD. Two items that need to be defined for the purposes of the TBD are: • A proposal to classify City arterials that meet one of three criteria, as principal arterials of regional significance, see Attachment 7. • A proposal to define congestion on principal arterials of regional significance as roadways that have approximately 704 one-way directional peak hour trips, see Attachment 8. Based on these definitions we anticipate all of the City's arterials, with the exception of 80th Avenue NE, would be eligible for the expenditure of transportation benefit district funds. Based on more current vehicle registration figures the total revenue that would be generated by the district with the imposition of a \$20 vehicle license fee would be \$284,000 per year. These funds could be spent on asphalt overlays, roadway reconstruction or new construction.			

If the City Council wishes to form a TBD, it must:

- Publish notice of a public hearing;
- Hold a public hearing; and
- Adopt an ordinance creating the TBD.

The report prepared by Mr. Lewis includes an example resolution calling for a public hearing and example ordinance establishing the district. Attachment 4 was prepared by the Association of Washington Cities and answers the most frequently asked questions regarding a TBD.

CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION:

Improve transportation for local residents by implementing the 6-year Transportation Improvement Plan.

RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION:

Schedule a public hearing to consider the establishment of a Transportation Benefit District to fund transportation improvements.

**REVIEWED BY FINANCE
DIRECTOR:**



**REVIEWED BY CITY
ATTORNEY:**

APPROVED BY CITY MANAGER:



TODAY'S DATE:
January 31, 2012

REVISION DATE(S):

FILE NAME & PATH (HYPERLINK):
S:\Transportation Benefit District\021312_Agenda Bill
Summary_TBD.doc

Attachment 1

Report from Lochner on Transportation Benefit District (TBD)

STAFF REPORT



TO: Fred Stouder
FROM: Steve Lewis
SUBJECT: Transportation Benefit District (TBD)
DATE: November 2, 2010

INTRODUCTION

Capital:

Throughout 2007 and 2008, the Kenmore City Council met to discuss the City's transportation system, needs, funding opportunities and priorities. With the adoption of the Transportation Element of the Comprehensive Plan (2008), and Transportation Improvement Program, the Council identified over \$179 million¹ in transportation facility needs, not including maintenance.

Maintenance:

In 2010 a preliminary evaluation of the City's street rehabilitation needs over the next 10 years identified approximately \$18.2 million of asphalt overlay and roadway rehabilitation projects. This is in addition to the annual road maintenance expenditures that have averaged over \$1.08 million annually.

Revenue:

The traditional sources of funding transportation projects in Kenmore include:

- **Transfers from the General Fund:** Transfers have held steady since 2007 at \$500,000 with the same estimated in 2010. However, this is down from its 2005 high of approximately \$638,000, a 20% decrease.
- **Real Estate Excise Tax (REET):** REET fees have seen a substantial decline since its peak in 2006 of \$1,630,000 to \$645,000 estimated in 2010, a 60% decrease.
- **Transfers from the Surface Water Management Fee (SWM):** While the majority of funding sources have seen a decrease in revenue, SWM funds have steadily risen since a low in 2005 of \$233,000 to an estimated \$300,000 in 2010, a 30 percent increase.
- **Transportation Impact Fees:** Transportation impact fees have been declining with the rest of the economy since hitting a peak in 2005; going down over 6% in 2006, another 5% in 2007 and 2% in 2008. With the adoption of a new fee schedule in 2009, coupled with several public building projects, including City Hall, impact fees jumped to over \$680,000 in 2009, but are expected to decline by over \$200,000 in 2010.
- **Motor Fuel Tax (gas tax):** Over the years, the motor fuel tax has been the most relied upon source of transportation funding for State and local governments. This revenue source has remained fairly constant with one major increase in 2007. With recent wide fluctuations in the cost of gasoline, the recession and more fuel efficient vehicles, the gas tax is anticipated to decrease slightly over time.

¹ See Kenmore Transportation Element & "Allocation of Costs of Kenmore Transportation Projects" for Kenmore's transportation impact fee assessment.

STAFF REPORT



Revenue from the Motor Fuel Tax peaked in Kenmore in 2007 at \$476,856; it went down over 4% in 2008 and another 3.65% in 2009.

- **License Tab Fees:** Proposition I-776 eliminated License Tab Fees in the street fund from \$169,700 in 2002, to zero today.
- **Motor Fuel Excise Tax:** Proposition I-169 eliminated the Motor Fuel Excise Tax in 1999. According to a budget note, Proposition I-169 reduced funds available for transportation projects by approximately \$1.5 million in the 2000 budget year.
- **State and Federal Grants:** Kenmore was extremely fortunate during its early years after incorporation to be awarded a variety of sizeable grants. For the most part, those grants came from either the Federal Transportation Efficiency Act program, direct gas tax allocation or the State Transportation Improvement Board.

TRANSPORTATION BENEFIT DISTRICT

Background:

During the 2010 Washington State Legislature regular session, the Legislature passed and the Governor signed an amendment related to transportation benefit districts (RCW 36.73). The amendment included changes that clarify how projects can qualify to be included in a TBD. Key elements of the amendment and bill affecting Kenmore include:

- Previously, projects had to be consistent with existing state and regional transportation plans. The amendment now permits improvements that are consistent with local transportation plans as well.

"Transportation improvement means a project contained in the transportation plan of the state ((or)), a regional transportation planning organization, city, county, or eligible jurisdiction as identified in RCW 36.73.020(2)."
- Improvements must still be "necessitated by existing or reasonably foreseeable congestion levels."
- A transportation improvement is defined as:

"A project may include investment in new or existing highways of statewide significance, principal arterials of regional significance, high capacity transportation, public transportation, and other transportation projects and programs of regional or statewide significance including transportation demand management. Projects may also include the operation, preservation, and maintenance of these facilities or programs."
- Previously, the authorized sales tax (requires a vote of the people) could not be imposed for a period exceeding ten years, which created a potential issue if a jurisdiction wanted to bond for improvements. The amendment now allows "after July 1, 2010, may be imposed for a period exceeding ten years if the moneys received under this section are dedicated for the repayment of indebtedness incurred in accordance with the requirements of chapter 36.73 RCW."

The key words "of regional or statewide significance" and "necessitated by congestion levels" will be important to the projects potentially funded by Kenmore. To better position the City for the implementation of a TBD, or even to clarify certain elements of the Comprehensive Plan, it would be

STAFF REPORT



beneficial if Kenmore's transportation plan were amended to (1) clearly define roads of "regional significance" and (2) more clearly define which roads meet the congestion designation.

Regional Arterials Defined in Kenmore

For the purposes of the Transportation Benefit District, a *principal arterial of regional significance* is defined as any roadway that is listed as an arterial street in the City's Comprehensive Plan, Transportation Element and meets at least one of the following three criteria:

1. At least 80% of the traffic carried by the arterial street is regional – that is, no more than 20% of the traffic on an arterial, based on the City's forecast model, originates in a City Transportation Analysis Zone and is destined for another City Transportation Analysis Zone; or
2. Is considered as an alternative route when a major regional facility such as SR 520, I-5, or I-405 are closed or impeded (in Kenmore, Simonds Road NE, Juanita Drive NE, 68th Avenue NE from NE 170th Street to SR 522, and SR 522 each serve in this capacity); or
3. Provide a regional connection to a regional destination inside the City of Kenmore, such as Kenmore by the Lake, Kenmore Air, and Bastyr University.

Using this definition, all arterial streets in Kenmore qualify as "regional" including:

- 80th Avenue NE
- 61st Avenue NE
- Simonds Road NE
- 73rd Avenue NE
- The Downtown Loop Road
- 68th Avenue NE to NE 185th Street

Regional Arterial Level of Congestion Defined in Kenmore

The City of Kenmore uses intersection level of service (LOS) as part of its system evaluation within the Comprehensive Plan. While intersection LOS is one way to measure congestion, it probably best represents congestion at intersections (not necessarily along the streets between intersections). Consultant and City staff evaluated a variety of methods to evaluate congestion along City streets, including intersection LOS, volume to capacity, and travel speed and found none adequately measured congestion in the City of Kenmore.

The State of Florida has done additional evaluation of congestion on streets in urbanized areas and suggests that congestion is achieved on 2-lane undivided streets when one-way directional volume achieves approximately 704 peak hour trips.² Using this methodology, each of the above listed arterial streets in Kenmore, with the exception of 80th Avenue NE, are considered to be "congested."

² 2009 FDOT Quality/Level of Service Handbook

STAFF REPORT



Implementing a Transportation Benefit District

The Kenmore City Council would serve as the governing body of the Transportation Benefit District (TBD), acting independently of their elected position. Any council member no longer serving on the City Council would likewise no longer be serving on the TBD governing body. The council would develop a plan that specifies the transportation improvements to be provided or funded by the TBD. As part of this plan, the council can indicate if the funds will be used immediately or if they will be collected over a specified period time. The TBD would have the same powers as the city to contract for street, road, or state highway improvement projects and to enter into reimbursement contracts.

If a TBD is found to be in the interest of the council, the City is required to conduct a public hearing at the time and place specified in a notice published at least once and not less than ten days before the hearing, in a newspaper of general circulation within the City. The notice shall be in addition to any other notices required by state or municipal law to be published. The notice shall:

- specify the function and activities proposed to be provided or funded,

Additional notice of the hearing may be given by mail, by posting within the proposed district, or in any manner the City deems necessary to notify affected persons. Hearings will be public and the City will consider objections from any person affected by the formation of the boundary.

Following the hearing, the City may establish a district if it finds the action to be in the public interest and adopt an ordinance providing for the action. The ordinance establishing a district defines the functions and boundaries of the district as well as the transportation improvements to be completed or funded. The defined functions and improvements may not be expanded beyond those specified in the above mentioned public hearing requirement. If the understood function or improvements is modified, additional hearings on the change or expansion would be required in an effort to determine the public interest to expand the functions or transportation improvements proposed to be provided or funded. Notices for these hearings would again require adherence to the hearing requirements outlined above.

The TBD governing body will develop a material change policy to address major plan changes that affect project delivery or the ability to finance the plan. The policy must address material changes to cost, scope, and schedule, the level of change that will require governing body involvement, and how the governing body will address those changes. At a minimum, in the event that a transportation improvement cost exceeds its original cost by more than twenty percent as identified in a district's original finance plan, the governing body is required to hold a public hearing to solicit public comment regarding how the cost change should be resolved.

The TBD is required to produce an annual report, indicating the status of transportation improvement costs, transportation improvement expenditures, revenues, and construction schedules, to the public and to newspapers of record in the district.

The TBD shall be dissolved by the Council when all indebtedness of the district has been retired and when all of the TBD's responsibilities have been satisfied.

To summarize, the following is a bulleted list of steps that the City and the TBD governing body would follow in implementing a TBD:

1. Council approves resolution to set a public hearing regarding the potential establishment of a TBD

STAFF REPORT



2. Council reviews an ordinance to amend the city code to establish a TBD, the TBD boundary and the specific purposes of the TBD
3. Council holds the public hearing on the ordinance
4. Following deliberation, council approves or denies ordinance
5. TBD holds public hearing to adopt charter and bylaws
6. TBD adopts TBD ordinance authorizing funding
7. TBD approves inter-local agreement with State Department of Licensing and TBD.

Revenue Generation:

To meet the identified goals of the TBD, the District is authorized to impose the following taxes and fees:

- Single-year voter-approved excess property tax levies
- Multi-year voter-approved levies for bond redemption
- General obligation bonds
- A voter approved sales tax of up to 0.2% which may not exceed a ten-year period without voter reauthorization
- A voter approved motor vehicle license renewal fee of up to \$100. Up to \$20 may be imposed without voter approval – if imposed in a jurisdiction wide TBD

If it is in the Districts interest to impose a license renewal fee, the TBD would join eight other districts in the region to impose the fee (see Table 1 below).

Table 1. State of Washington Transportation Benefit Districts

District	Fee	Effective Date
Burien No. 1	\$10	Feb. 1, 2011
Des Moines	\$20	Sept. 1, 2009
Edmonds	\$20	Sept. 1, 2009
Lake Forest Park	\$20	Sept. 1, 2009
Olympia	\$20	Oct. 1, 2009
Prosser	\$20	Nov. 1, 2009
Seattle	\$20	Nov. 1, 2011
Shoreline	\$20	Feb. 1, 2010
Snoqualmie	\$20	Mar. 1, 2011

Source: Washington Dept of Licensing, 2010

If a vehicle licensing fee is imposed those vehicles that are subject to fees as well as those that are exempt are included below:

Vehicles subject to fees

- Passenger vehicles
- Trucks that weigh 6,000 pounds or less
- Motorcycles

STAFF REPORT



- Commercial passenger vehicles and trucks that weigh 6,000 pounds or less
- Combination trucks that weigh 6,000 pounds or less
- Tow trucks
- House moving dollies
- Trucks used exclusively for hauling logs that weigh 6,000 pounds or less
- Taxicabs
- For-hire or stage vehicles with 6 seats or less
- For-hire or stage vehicles with 7 or more seats that weigh 6,000 pounds or less
- Private use trailers over 2,000 pounds
- Motorcycle trailers
- Travel trailers
- Fixed load vehicles that weigh 6,000 pounds or less
- Mobile homes licensed as vehicles

Exempt vehicles

- All farm vehicles
- Campers
- Off-road vehicles
- Snowmobiles
- Mopeds
- Personal use trailers with a single axle and less than 2,000 pounds scale weight
- Commercial trailers
- Combination trailers
- Trailers used exclusively for hauling logs
- Horseless carriage, collector, or restored-plate vehicles
- Converter gear
- Government vehicles
- Private school vehicles
- Vehicles properly registered to disabled American veterans

Benefits:

Reviewing the 10 year list of asphalt overlay or rehabilitation projects using the definition of regional congested arterials previously discussed there are approximately 80 projects that would qualify. The total cost of these improvements is estimated at \$4,000,000. Based on an evaluation of this list submitted to the City Council July 12, 2010 the annual need is \$209,600. Assuming the adoption of a vehicle license fee, and an annual renewal average of 14,200 vehicles, Table 2 below offers an estimate of revenue generated at rates of \$20, \$50 and \$100.00.

TBD License Renewal Fee	Estimated Revenue Generated	10 years*	20 years*	30 years*
\$20.00	\$285,000	\$2,850,000	\$5,700,000	\$8,550,000
\$50.00	\$713,000	\$7,130,000	\$14,260,000	\$21,390,000
\$100.00	\$1,400,000	\$14,000,000	\$28,000,000	\$42,000,000

*assumes static renewal rate of 14,200 annually

If the TBD allocates revenue to asphalt overlay and rehabilitation projects any remaining revenue could be allocated to identified capital projects.

Outlined below we have included a draft public hearing resolution and a draft ordinance establishing a TBD in Kenmore for further review by the City Council, City Manager and City Attorney.

STAFF REPORT



1. Resolution No. XXX – Public Hearing

Setting a Public Hearing Regarding the Establishment of a Transportation Benefit District Pursuant to the Authority of Chapter 36.73 RCW.

WHEREAS, the City Council of the City of Kenmore is responsible under the Constitution of the State of Washington for the improvement, maintenance and protection of public ways, and,

WHEREAS, the City has limited transportation funding to pay for necessary transportation preservation and maintenance; and

WHEREAS, Chapter 36.73 RCW provides for the establishment of transportation benefit districts and the levying of additional revenue sources for transportation improvements within the district; and

WHEREAS, the City Council wishes to consider the use of transportation benefit district coexistent with its boundaries which exercise all of the powers and authorities available under state statute at a public hearing, prior to reaching and making a determination, now, therefore,

The City Council of Kenmore, Washington, hereby resolves as follows:

Section 1. A public hearing is hereby set for XXX, 2011 to consider establishment of a transportation benefit district to exercise those powers set forth in RCW 36.73.040. Said public hearing shall be held in the Council chambers at 7:00 pm or as soon thereafter as this matter may be heard.

Resolved the _____ day of _____, 20__.

2. Ordinance No. XXX – Ordinance to Enact the Kenmore Transportation District

Specifying Boundaries for the District, Specifying Maintenance and Preservation of Existing Improvement, and Fixing a Time When the TBD Becomes Effective

WHEREAS, the City of Kenmore has the responsibility under the Constitution of the State of Washington for the improvement, maintenance, and protection of public ways within the corporate limits of the City pursuant to Chapter 35.22 RCW; and

WHEREAS, the cost of the estimated roadway rehabilitation is estimated at \$4,000,000 over the next 10 years; and

WHEREAS, the cost of estimated transportation capital improvements is estimated at over \$29,000,000 in the 2011 Transportation Improvement Program; and

WHEREAS, the City has limited funding and declining revenue sources to pay for necessary preservation and maintenance of its transportation infrastructure and implementation of the Transportation Improvement Program and to make targeted investments toward creating a more effective and efficient transportation system; and

WHEREAS, Chapter 36.73 RCW provides for the establishment of Transportation Benefit Districts (TBD) by cities and counties and to levy and impose various taxes and fees to generate revenues to support transportation improvements within the district that are consistent with

STAFF REPORT



state, regional or local transportation plans and necessitated by existing or reasonably foreseeable congestion levels; and

WHEREAS, RCW 35.21.225 authorizes the City Council to establish a TBD subject to the provisions of Chapter 36.73 RCW; and

WHEREAS, the City desires to form a TBD which includes the entire City of Kenmore as the boundaries currently exist or are hereafter expanded due to annexation; and

WHEREAS, prior to establishing a TBD, the City Council is required to conduct a public hearing upon proper notice to describe the function and purposes of the proposed TBD; and

WHEREAS, the City provided proper notice, conducted a public hearing and took public comment regarding the proposed establishment of a TBD in accordance with RCW 36.73.050; and

WHEREAS, the City Council of the City of Kenmore finds it to be in the interest of the City and its residents and businesses to establish a citywide TBD for preserving and maintaining transportation infrastructure and improving public safety,

WHEREAS, the City Council of the City of Kenmore shall establish a governing body for the TBD comprised of the City Council acting in an ex officio and independent capacity; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF Kenmore AS FOLLOWS:

Section 1. A new chapter is added to the Kenmore Municipal Code as follows:

Chapter XXX Transportation Benefit District.

XXX Transportation Benefit District Established.

There is created a transportation benefit district to be known as the Kenmore Transportation Benefit District with geographical boundaries comprised of the corporate limits of the City as they currently exist or as they may exist following future annexations.

XXX Governing Board.

a. The governing board of the Transportation Benefit District shall be the Kenmore City Council acting in an ex officio and independent capacity, which shall have the authority to exercise the statutory powers set forth in Chapter 36.73 RCW.

b. The treasurer of the Transportation Benefit District shall be the City Director of Finance.

c. The Board shall develop a material change policy to address major plan changes that affect project delivery or the ability to finance the plan, pursuant to the requirements set forth in RCW 36.73.160(1).

d. The Board shall issue an annual report, pursuant to the requirements of RCW 36.73.160(2).

STAFF REPORT



XXX Authority of the District

The Board shall have and may exercise any powers provided by law to fulfill the purpose of the Kenmore Transportation Benefit District.

XXX Use of Funds.

The funds generated by the Transportation Benefit District may be used for any purpose allowed by law including to operate the District and to make transportation improvements that are consistent with existing state, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels pursuant to Chapter 36.73 RCW. The transportation improvements funded by the district shall be made in an effort to preserve and maintain transportation infrastructure, improve public safety, implement projects identified in the Kenmore's Transportation Improvement Program. Additional transportation improvement projects of the district may be funded only after compliance with the provisions of RCW 36.73.050(b).

XXX Revenue Sources.

The Board shall have the authority to establish fees and other revenue sources consistent with RCW 36.73.065.

XXX Dissolution of District.

The Transportation Benefit District shall be dissolved when all indebtedness of the district has been retired and when all of the District's anticipated responsibilities have been satisfied.

Section 2. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of its application to any person or circumstance, shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 3. This ordinance shall take effect and be in force 30 days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Kenmore Municipal Code Section XXX.

Attachment 2

July 12, 2010 City Council Agenda Bill

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Discussion and Consideration of a City of Kenmore Transportation Benefit District			July 12, 2010
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Engineering	Ron Loewen	Steve Lewis, Lochner	
COST OF PROPOSAL: \$30,000		ACCOUNT NUMBER: 01 32 5401	
AMOUNT BUDGETED FOR PLAN: No funds have been budgeted for this effort.		NAME AND FUND #: General Fund - Engineering	
ATTACHMENT(S) TO AGENDA PACKET ITEM:			
• SSHB 1591 • Previous agenda bill provided for the City Council in January of this year • Previous memo from HW Lochner Describing a Transportation Benefit District and Options • Chapter 36.73 RCW Transportation benefit districts			
SUMMARY STATEMENT:			
During the 2010 Regular Session, the Legislature passed and the Governor signed an amendment related to transportation benefit districts (RCW 36.73). The amendment included changes that clarify how projects can qualify to be included in a TBD. Key elements of the amendment and bill affecting Kenmore include: • Previously, projects had to be consistent with existing state and regional transportation plans. The amendment now permits improvements that are consistent with local transportation plans as well. "Transportation improvement" means a project contained in the transportation plan of the state ((or)), a regional transportation planning organization, city, county, or eligible jurisdiction as identified in RCW 36.73.020(2)." • Improvements must still be "necessitated by existing or reasonably foreseeable congestion levels." • A transportation improvement is defined as: "A project may include investment in new or existing highways of statewide significance, principal arterials of regional significance, high capacity transportation, public transportation, and other transportation projects and programs of regional or statewide significance including transportation demand management. Projects may also include the operation, preservation, and maintenance of these facilities or programs." • Previously, the authorized sales tax (requires a vote of the people) could not be imposed for a period exceeding ten years, which created a potential issue if a jurisdiction wanted to bond for improvements. The amendment now allows "after July 1, 2010, may be imposed for a period exceeding ten years if the moneys received under this section are dedicated for the repayment of indebtedness incurred in accordance with the requirements of chapter 36.73 RCW." We believe the key words "of regional or statewide significance" and "necessitated by congestion levels" will be important to the projects potentially funded by Kenmore. To better position the City for the implementation of a TBD, or even to clarify certain elements of the Comprehensive Plan, it would be beneficial if Kenmore's transportation plan were amended to (1) clearly define roads of "regional			

significance” and (2) more clearly define which roads meet the congestion designation, given Kenmore’s Comprehensive Plan currently utilizes intersection levels of service to define areas of congestion.

Principal arterials in Kenmore include:

- | | |
|--------------------------------|---|
| (1) SR 522 | (3) 68 th Avenue NE from NE 181 st Street to NE 170 th Street, and |
| (2) 61 st Avenue NE | (4) NE 170 th Street/Simonds Road NE |

We believe the City’s transportation model will also show that Juanita Drive NE, 73rd Avenue NE and 80th Avenue NE (minor arterials) each provide an important regional function as traffic out of Snohomish County travels to and from destinations accessed by SR 522. Consideration to amending the plan to include 68th Avenue NE from NE 181st Street to NE 185th Street might have merit as well in order to include that segment of the road in a potential TBD improvement project. We can currently extend our definition of congestion to:

- | | |
|--------------------------------|---|
| (1) SR 522 | (4) NE 170 th Street/Simonds Road |
| (2) 61 st Avenue NE | (5) 73 rd Avenue NE from SR 522 to NE 18 th Street, and |
| (3) 68 th Avenue NE | (6) Juanita Drive south of NE 179 th Street* |

*Although how far south of NE 179th on Juanita will take further evaluation.

District finances are a tax assessment on registered vehicles of up to \$20 annually without voter approval. During the previous Transportation Benefit District discussion it was estimated a \$10 rate would generate \$173,100 per year or \$1,731,000 over ten years and with a \$20 rate would generate \$346,200 or \$3,462,000 over ten years.

Specific example projects would include:

Project	Project Costs
Arterial Asphalt Overlays	\$2,100,000 (Ten year total)
68 th Avenue NE – NE 175 th Street to Sammamish Bridge	\$3,100,000
61 st Avenue NE and NE 181 st Traffic Signal	\$1,330,000

If the City wishes to form a TBD, it must:

- Publish notice of a public hearing;
- Hold a public hearing; and
- Adopt an ordinance creating the TBD.

The current 2009-2010 budget does not include the costs of establishing a Board. These are estimated as \$30,000 to include the costs of the City Attorney and Consultants to create the required legislation and reports.

CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION:
Improve transportation for local residents by implementing the 6-year Transportation Improvement Plan.

RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION:
If the Council chooses schedule a public hearing to consider the establishment of a Transportation Benefit District to fund transportation improvements and direct staff to prepare the required legislation and reports.

REVIEWED BY FINANCE DIRECTOR:	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER:
TODAY’S DATE: June 23, 2010	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK): S:\Transportation Benefit District\062110_Agenda Bill Summary TBD (2) (2).doc

Attachment 3

House Bill 213.3/11

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-0213.3/11 3rd draft

ATTY/TYPIST: BP:crs

BRIEF DESCRIPTION: Concerning the regulation and preservation of urban streets through a local option street maintenance utility and allowing the imposition of a charge.

1 AN ACT Relating to the regulation and preservation of urban streets
2 through a local option street maintenance utility and allowing the
3 imposition of a charge; amending RCW 82.80.070; adding a new chapter to
4 Title 35 RCW; repealing RCW 82.80.040, 82.80.050, and 82.80.060; and
5 providing an effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** FINDINGS--PURPOSE. The legislature finds
8 that:

9 (1) The maintenance, operation, and preservation of the streets and
10 the provision of street maintenance utility service in urban areas is
11 essential for the safety, protection, and convenience of residents,
12 businesses, and governmental entities receiving the service.
13 Inadequate and poorly maintained streets and poor street maintenance
14 utility service adversely affect the health, safety, welfare, and
15 property of residents and businesses located in these areas. Harmful
16 impacts include traffic congestion, decreased vehicle fuel efficiency,
17 and a consequent severe adverse impact on air quality. Further adverse
18 impacts include vehicle damage, increased accident frequency, more

1 serious accidents, and decreased access to needed services and
2 businesses.

3 (2) Residents and businesses in areas with poorly maintained
4 streets and poor street maintenance utility service experience
5 decreased access to service and delivery vehicle support, including
6 decreased access to public transportation and taxi service, the
7 delivery of goods and services, and slower response times for fire,
8 police, and emergency medical vehicle services.

9 (3) Poor street maintenance utility service in urban areas
10 accelerates deterioration of private vehicles, increases traffic
11 volumes, and exacerbates peak flow traffic problems for the residents
12 and businesses in affected areas. Furthermore, it is also the intent
13 of the legislature to provide credits for demonstrable reductions in
14 automobile traffic in order to provide incentives to make better land
15 use decisions and to encourage behaviors that reduce needless wear on
16 our transportation infrastructures.

17 (4) The benefits for city residents and businesses in areas with
18 well-constructed and maintained streets and good street maintenance
19 utility service include improved air quality, fuel efficiency, travel
20 speed, travel safety, reduction of damage and deterioration of
21 vehicles, lower insurance rates, and better public transportation,
22 fire, police, and emergency medical vehicle response times.

23 (5) Access to and use of the street system and street maintenance
24 utility service is necessary to support the use of all developed real
25 property.

26 (6) Maintenance, repair, and preservation of the streets and other
27 street maintenance utility service in urban areas has traditionally
28 been funded by general taxes without regard to the burdens placed upon
29 streets by different classes of users or the respective benefits
30 derived by them.

31 (7) Objective means are available to assess pavement conditions to
32 identify distressed areas of urban streets.

33 (8) Objective measures are available to assess the relative burdens
34 placed upon streets and street maintenance utility service users in
35 urban areas by different classes of users and the respective benefits
36 derived by them.

37 (9) Maintenance and preservation of streets and street maintenance
38 utility service in urban areas should be funded by rates charged to

1 users of the streets consistent with the burden placed on the streets
2 by various classes of users and the respective benefits derived by them
3 as maintenance utility supported users of the street system.

4 (10) A street maintenance utility provides a more equitable and
5 efficient means to monitor, regulate, and maintain the streets and to
6 provide street maintenance utility service than general tax funding.

7 (11) Since 1980, vehicle registration has increased by sixty
8 percent and vehicle miles traveled on municipal streets have increased
9 far in excess of the rate of population growth.

10 (12) Pavement surfaces in urban areas are subjected to much heavier
11 use and have much higher maintenance needs than pavement in rural
12 areas. When pavement is not properly maintained, the pavement
13 deterioration process, amount of work to restore the pavement, and
14 costs of restoration all accelerate exponentially. This creates a
15 downward spiral of increasing pavement deterioration and higher costs
16 to remediate the problem.

17 (13) The institute of transportation engineers is an international
18 educational and scientific professional association. It has developed
19 reports, which fairly measure the relative benefits of streets to
20 different classes of property use. The institute of transportation
21 engineers report is a nationally recognized and accredited manual that
22 provides a reasonable basis to apportion a part of the costs of street
23 maintenance utility service.

24 (14) A street maintenance utility created and governed by the
25 legislative authority of a city consistent with the requirements of
26 this chapter provides an appropriate and efficient means to monitor,
27 regulate, and maintain public streets.

28 (15) The preservation of streets through a maintenance utility
29 service program will directly serve and benefit those who pay street
30 maintenance utility rates by allocating street maintenance utility
31 revenues to those who perform maintenance within the street maintenance
32 utility service area.

33 (16) The purpose of this chapter is to authorize the creation of a
34 street maintenance utility by cities to serve the residents,
35 businesses, governmental entities, and all other like users in street
36 maintenance utility service areas through the preservation and
37 maintenance of streets for areas with an identified street maintenance
38 utility service. In order to reflect the relative burdens placed upon

1 the streets by different classes of users, street maintenance utility
2 rates are determined in proportion to the levels of use of different
3 classes of residents, businesses, governmental entities, and all other
4 like users who depend upon access to and use of the street system.

5 NEW SECTION. **Sec. 2. DEFINITIONS.** The definitions in this
6 section apply throughout this chapter unless the context clearly
7 requires otherwise.

8 (1) "City" means an incorporated city or town.

9 (2) "Independent examiner" means an official appointed by a
10 majority vote of the legislative authority of the city and who is not
11 subject to discharge except for misfeasance or malfeasance in office.
12 The independent examiner considers ratepayer appeals of street
13 maintenance utility matters arising under section 6 of this act.
14 Alternatively, for cities with an administrative hearings examiner
15 system, independent examiner duties may be assigned to the hearings
16 examiner.

17 (3) "Maintenance" means maintaining or preserving existing public
18 street facilities, including meeting adopted municipal street
19 standards.

20 (4) "Sound engineering principles" means principles or practices
21 reasonably accepted within the civil engineering or traffic engineering
22 profession, including, but not limited to, the department of
23 transportation extended method in determining paving distress ratings,
24 the department of transportation pavement distress manual, the
25 department of transportation local agency pavement management guide,
26 materials developed by the institute of transportation engineers,
27 including manuals or materials differentiating types of property uses
28 and correlating property use and the expected number of annual motor
29 vehicle and pedestrian trips generated by these uses, and other
30 studies, manuals, or materials that are reliable and based on
31 engineering practices as may be developed by professional engineering
32 staff or consultants according to generally accepted professional
33 standards.

34 (5) "Street" means a city's public right-of-way within the
35 boundaries of areas used for motor vehicle, bicycle, or pedestrian
36 traffic. "Street" includes bridges, gutters, curbs, and sidewalks.

1 (6) "Street maintenance utility" means a citywide utility service
2 offered by a city to provide street maintenance services in accordance
3 with this chapter. Street maintenance utility activities may further
4 be identified by ordinance consistent with this chapter.

5 (7) "Street maintenance utility rates" means street maintenance
6 utility user charges authorized under this chapter for street
7 maintenance utility services.

8 (8) "Street maintenance utility service" means actions by a city
9 established street maintenance utility to own, manage, operate,
10 maintain, and preserve to adopted municipal standards all or any
11 described portion of its existing streets and other existing
12 transportation systems. Street maintenance utility services may also
13 include (a) repayment of revenue or general obligation bonds repayable
14 from charges listed in section 5 of this act issued in accordance with
15 chapter 35.41, 35.92, or 39.46 RCW, or (b) other evidences of
16 indebtedness issued to pay costs for which street maintenance utility
17 service revenues may be used.

18 (9) "Street maintenance utility service area" means a citywide
19 area, excluding private streets, in which street maintenance utility
20 services are provided and street maintenance utility rates are charged,
21 as established under this chapter.

22 NEW SECTION. **Sec. 3. LEGISLATIVE AUTHORITY ACTION.** (1) Subject
23 to section 4 of this act, the legislative authority of a city may
24 submit an authorizing proposition to the voters and, if approved,
25 establish a street maintenance utility to provide street maintenance
26 utility service, with the authority to own and operate the street
27 maintenance utility. A street maintenance utility may only be
28 established by a city if an authorizing proposition is approved by the
29 voters of the city.

30 (2) The legislative authority of the city is the governing body of
31 the street maintenance utility. The legislative authority of the city
32 may not assess a street maintenance utility user rate outside its
33 jurisdictional limits.

34 NEW SECTION. **Sec. 4. FORMATION PROCESS.** (1) The legislative
35 authority of a city shall conduct a public hearing prior to submitting
36 an authorizing proposition to the voters for the formation of a street

1 maintenance utility. Notice of the hearing must include an explanation
2 of the proposal and the proposed street maintenance utility service
3 area. The notice may include a description of the condition of the
4 pavement areas for the proposed street maintenance utility service
5 area, summaries of pertinent studies, field investigations, and
6 pavement condition scores, including areas classified, or at risk to be
7 classified, for no further maintenance without street maintenance
8 utility support. The notice must include a general proposed plan for
9 street maintenance utility service to be carried out with street
10 maintenance utility rates, a summary of the proposed street maintenance
11 utility rates, a description of the proposed area for utility service,
12 and any other pertinent information. The notice must be published once
13 a week for two consecutive weeks in a newspaper of general circulation
14 within the proposed street maintenance utility service area.
15 Alternatively, there may be one publication, combined with the
16 presentation of the notice information on a government cable television
17 channel at least ten times in the two-week period and prominently
18 posting the required information on a municipal web site.

19 (2) At the hearing, the city's legislative authority shall review
20 the proposal and consider comments from any interested party and may
21 modify the proposal in response to those comments, as well as any
22 information, opinion polls, or other material relevant to the question
23 presented. The hearing may be continued if necessary.

24 (3) Upon the conclusion of the hearing, the city's legislative
25 authority may submit an authorizing proposition to the voters creating
26 a street maintenance utility, together with the intended street
27 maintenance utility rates to support the maintenance utility, which
28 must be supported by an evidentiary record with findings in accordance
29 with this section and consistent with the findings and purposes of this
30 chapter.

31 (4) (a) The street maintenance utility ordinance must include:

32 (i) A finding that the creation of a street maintenance utility is
33 in the interest of the public health and safety as supported by
34 findings from the hearing and any other basis;

35 (ii) A finding that the street maintenance utility will allocate
36 the relative burdens placed on the streets by various classes of users
37 and the benefits derived by the various classes of users;

1 (iii) A finding that the street maintenance utility rates are
2 intended to be adequate to provide revenues sufficient for the street
3 maintenance utility, including payment of the principal and interest on
4 such bonds or warrants and payments that the street maintenance utility
5 is obligated to set aside in any special fund or funds created for such
6 purposes;

7 (iv) A description of the street maintenance utility service area
8 and user rate schedule consistent with section 5 of this act setting
9 forth the amounts to be charged to residential users, business users,
10 governmental entities, and other like street users located in the
11 street maintenance utility service area; and

12 (v) A provision that a street maintenance utility advisory
13 committee must be established as a part of utility formation to advise
14 the city from time to time regarding the street maintenance utility.
15 The street maintenance utility advisory committee must be appointed by
16 the mayor or mayor's designee and confirmed by the city's legislative
17 authority. Committee membership may not exceed seven members, a
18 majority of which must be city residents or business owners, and must
19 represent the different user classifications of the street maintenance
20 utility. Street maintenance utility advisory committee duties may
21 include, but are not limited to, the review of proposed maintenance
22 projects, rates, credits, or plan changes, or other matters assigned by
23 ordinance. Committee members must serve without compensation, but
24 city-approved committee expenses and staff support must be provided by
25 the city.

26 (b)(i) The street maintenance utility ordinance may include a
27 description or summary of the condition of the pavement in the street
28 maintenance utility service area, based on field investigations,
29 pavement condition scores, or other information. The description or
30 summary may include a proposed timetable for street maintenance utility
31 services, summary of the services, budget, including projected revenues
32 from street maintenance utility rates or other sources, and any other
33 factors deemed relevant.

34 (ii) In street maintenance utility service areas that include land
35 owned by port districts, street maintenance activity supporting freight
36 movement is an allowable use for utility revenue.

37 (c)(i) The street maintenance utility ordinance must include a
38 policy to address major plan changes that affect street maintenance

1 utility project delivery or ability to finance identified projects.
2 The policy must at least address material changes to cost, scope, and
3 schedule, and how the city will address those changes. At a minimum,
4 the city shall consult with the street maintenance utility advisory
5 committee and publish a public notice regarding how the plan change
6 should be resolved.

7 (ii)(A) A street maintenance utility shall issue an annual report
8 indicating the status of program revenues, annual revenues received,
9 and portion of revenues that are bonded, a summary of annual
10 expenditures on identified maintenance and preservation projects, and
11 programmed projected construction schedules for the next budget year.
12 The annual report must also provide a means of describing if rates and
13 revenues are sufficient to obtain and maintain the city's systemwide
14 pavement condition index standard and a comparison of the systemwide
15 pavement condition index data available for prior years since formation
16 of the street maintenance utility, the number of lane miles by street
17 classification within the utility, and the number of new lane miles by
18 street classification added or subtracted from the system during the
19 year.

20 (B) Where underlying public or private utilities are required by
21 city policy to make repairs to pavement structures for utility
22 trenches, the annual report must estimate the amount of contributed
23 restoration work performed for pavement restoration.

24 (C) Cities shall make available copies of the annual report to any
25 ratepayer upon request.

26 NEW SECTION. **Sec. 5. RATES.** (1)(a) If a city creates a street
27 maintenance utility, the city may establish street maintenance utility
28 rates by appropriate legislative action not inconsistent with this
29 section.

30 (b) Street maintenance utility rates apply to residents,
31 businesses, governmental entities, and other users located in the
32 street maintenance utility service area. Once rates are established
33 using sound engineering principles and the factors identified in
34 subsection (2) of this section, rates may be expressed as a designated
35 dollar amount per trip generated, type of household unit, or type of
36 business. Rates may be collected no more frequently than monthly and
37 no less frequently than annually. Rates set for users other than

1 households may be expressed in equivalents of household units or as
2 specified by ordinance. A city must phase in rates on a schedule of
3 not less than four years, as the city may determine.

4 (2)(a) In establishing street maintenance utility rates, the
5 following factors must be considered:

6 (i) The correlation between property uses and the estimated number
7 of vehicle trips from these uses; and

8 (ii) The institute of transportation engineers manual or other
9 resources of comparable acceptance or reliability.

10 (b) In establishing street maintenance utility rates, the following
11 factors may be considered:

12 (i) A cost component for the street maintenance utility's ongoing
13 base level operations. For the purposes of this subsection (2)(b)(i),
14 "base level operations" (A) means the threshold costs of operating the
15 utility per subscriber unit without regard for level of use or
16 intensity of service, and (B) refer to general systemwide costs. The
17 estimated number of vehicle trips generated by specific types of
18 property occupancies or uses may also be considered.

19 (ii) (A) User location;
20 (B) Differences in costs of service to different user classes;
21 (C) User proximity to arterial streets;
22 (D) Differences in costs or character of the service to users;
23 (E) Times of use;
24 (F) Number and type of vehicles associated with household units,
25 governmental entities, or businesses;
26 (G) Differences in the cost of maintenance, operation, repair, and
27 replacement of various parts of the street system, with consideration
28 to lowest life-cycle costing, by capital contributions made to the
29 system including, but not limited to, assessments, achievement of
30 traffic reduction, and air quality improvement goals;
31 (H) Capital contributions made to the system including, but not
32 limited to, assessments; and
33 (I) Special assessments, such as local improvement districts, for
34 streets and street-related improvements.

35 (iii) Any other matters that present a reasonable difference as a
36 grounds for distinction.

37 (3) Street maintenance utility rates may not:

38 (a) Include an exemption or credit for the payment of any tax;

1 (b) Be included for any reason on a user's property tax bill or
2 notice; or
3 (c) Be imposed on undeveloped premises.
4 (4) (a) A city may credit street maintenance utility rates on vacant
5 premises, provided that the owner produces proof of time of vacancy
6 under procedures set forth by the city.
7 (b) A city may reduce or credit rates on residential properties to
8 the extent of their occupancy by low-income senior citizens and other
9 low-income citizens as provided in RCW 74.38.070 and consistent with
10 Article VIII, section 7 of the state Constitution, or to the extent
11 determined proper for the necessary support of the poor and infirm, as
12 reasonably determined by the city in the street maintenance utility
13 ordinance.
14 (c) A city may reduce or credit rates on business or governmental
15 entities to the extent such business or governmental entities are
16 providing for streets, street-related improvements, and street
17 maintenance utility services within the street maintenance utility
18 service area, and based on a showing that the reduction or credit
19 granted is reasonably proportionate to the value contributed or cost
20 avoided by the street maintenance utility.
21 (d) A city may reduce or credit rates on residences, business
22 entities, or other users served by private streets to the extent they
23 are providing for streets, street-related improvements, and street
24 maintenance utility services, and based on a showing that the reduction
25 or credit granted is reasonably proportionate to the value contributed
26 or cost avoided by the street maintenance utility.
27 (5) If feasible, the ordinance must provide for mitigation for
28 incidental trips that are often combined with other trips, as compared
29 to destination trips that are associated with creating separate trip
30 burdens on the streets.
31 (6) The ordinance may provide for user rate reduction if there is
32 a showing of trip reduction, including reductions for residential users
33 participating in regular carpool or vanpool arrangements or for
34 commercial users offering carpool, vanpool, public transit passes, or
35 a trip reduction program approved under provisions as established by
36 ordinance.
37 (7) Street maintenance utility rates must be uniform for the same
38 class of ratepayers receiving services provided or imposing burdens on

1 a transportation system. Street maintenance utility rates collected by
2 a street maintenance utility must not be established in excess of the
3 amount authorized by the ordinance.

4 (8) Street maintenance utility rates may supplement any other
5 available resources for maintaining or preserving streets, but may not
6 duplicate or replace transportation impact fees authorized under growth
7 management laws designed to pay for increasing the capacity of the
8 street system to accommodate the needs for new growth and development
9 rather than street maintenance or remediation of existing deficiencies
10 in the street system.

11 (9) A city may provide or contract to provide billing and
12 collection services of the street maintenance utility rates as a part
13 of or separate from other maintenance utility services provided. The
14 ordinance may use the connection or consumption of other maintenance
15 utility services as a basis to establish occupancy or use.

16 (10) Street maintenance utility rates may not be computed based on
17 the ad valorem value of the underlying real property or its
18 improvements.

19 (11) The rates established under this section are not intended to
20 be regarded as tolls, but to the extent that the rates may be
21 determined to be tolls by a court of competent jurisdiction,
22 legislative approval is granted consistent with the requirements of
23 this chapter. Any amounts regarded as tolls must be computed in a like
24 manner as provided under this chapter for street maintenance utility
25 rates, subject to the same ratepayer protections.

26 (12) The rates established under this section are not intended to
27 be regarded as taxes, but to the extent that the rates may be
28 determined to be taxes by a court of competent jurisdiction,
29 legislative approval is granted consistent with the requirements of
30 this chapter.

31 (13) Street maintenance utility rates established under this
32 section do not constitute taxes or fees as provided under RCW 82.02.050
33 through 82.02.100 or chapter 39.92 RCW. A street maintenance utility
34 may be funded by rates or any other lawful revenue source.

35 (14) Prior to any rate change, the street maintenance utility shall
36 conduct a public hearing to review the condition of the street
37 infrastructure and future program needs based upon adopted standards.

1 (15) In the case of a legal challenge to any rates or rate
2 classification, it is the burden of the establishing government, by a
3 preponderance of the evidence, to show that the rates are not in excess
4 of the burden created by the ratepayer or rate class concerned.

5 NEW SECTION. Sec. 6. APPEALS. (1) The street maintenance utility
6 ordinance under section 5 of this act must include provision for a user
7 to appeal a rate or rate classification upon a showing that the user
8 does not generate equivalent trips, on the average, to other parcels in
9 the same rate class, that the appellant's rate has been improperly
10 calculated, or another good cause. An appeal may also request a review
11 of whether the base rate is adequate to cover ongoing base level
12 operations and whether base rate items are properly allocated to the
13 base rate for a given class of users. Refunds on collected rates are
14 not required for any period before the time a written appeal is
15 received under procedures established by ordinance. A reasonable
16 charge, not to exceed actual cost of the appeal, may be required to be
17 paid by an appealing ratepayer.

18 (2) Ratepayer appeals must be considered by an independent
19 examiner. The examiner shall receive and examine available
20 information, prepare a record of the information, and enter findings of
21 fact, conclusions based upon those facts, and a decision. The
22 jurisdiction of the independent examiner extends to appeals about the
23 base rate, rate classifications, and rates charged to an individual
24 user. The independent examiner's jurisdiction does not extend to any
25 other aspects of street maintenance utility operation, enforcement of
26 the street maintenance utility ordinance, or any management or control
27 of the city's streets. Appeals from decisions of the examiner acting
28 within its jurisdictional duties must be directly made to the superior
29 court. Additional provisions that govern appeals under this section
30 must be provided by ordinance.

31 NEW SECTION. Sec. 7. RATE COLLECTION. (1) A street maintenance
32 utility ordinance may include provision of a penalty for rates sixty
33 days past due, but not to exceed one percent per month thereafter on
34 the unpaid balance. All unpaid street maintenance utility rates may be
35 collected against the owner, tenant, or occupant in any manner as

1 provided by law, but for a tenant or occupant, rates collected may not
2 be outside the period of tenancy or occupancy.

3 (2) As a supplemental remedy, a street maintenance utility
4 ordinance may: (a) Provide that any unpaid rates and applicable
5 penalties are a lien against the real property for which the street
6 maintenance utility services were provided, which amounts may be
7 foreclosed in the manner of a lien for labor and materials furnished on
8 the subject premises. Each year, a lien may not exceed twelve months
9 of accrued and unpaid charges, plus any applicable penalties; or (b)
10 provide that unpaid street maintenance utility rates are a lien against
11 the property to which the services are provided, which may be enforced
12 in the same manner as rates and charges for the use of systems of
13 sewerage and storm drainage under chapter 35.67 RCW.

14 NEW SECTION. Sec. 8. USE OF REVENUES. (1) All street maintenance
15 utility rate revenues must be deposited in a special fund or account
16 dedicated to permissible street maintenance utility service and must be
17 used for those purposes only.

18 (2) Permitted purposes include any identified street maintenance
19 utility service.

20 NEW SECTION. Sec. 9. DISSOLUTION. The legislative authority of
21 a city may dissolve a street maintenance utility by ordinance upon a
22 finding that the dissolution is in the public interest, but any
23 unexpended funds must be held in trust to be expended for only those
24 permissible purposes as provided in section 8 of this act.

25 NEW SECTION. Sec. 10. BID LAWS. Cities that operate a street
26 maintenance utility under this chapter remain subject to public works
27 bid limits as described in RCW 35.22.620, 35.23.352, and 35A.40.210.

28 NEW SECTION. Sec. 11. INTERLOCAL AGREEMENTS. A city electing to
29 establish a street maintenance utility under this chapter may enter
30 into an interlocal agreement with other authorized parties pursuant to
31 chapter 39.34 RCW for the purposes of maximizing street maintenance
32 utility funding.

1 NEW SECTION. **Sec. 12.** OTHER RESOURCES. A city electing to
2 establish a street maintenance utility under this chapter may use any
3 other resources for street maintenance utility service otherwise
4 permitted by law, consistent with any limitations on the service.

5 NEW SECTION. **Sec. 13.** SCOPE. (1) This chapter or any action
6 taken under its authority does not diminish any other general or
7 specific municipal regulatory or funding powers otherwise permitted by
8 law.

9 (2) This chapter is not intended to create or enhance any duty upon
10 any city with respect to the maintenance and preservation of its
11 streets beyond that which now exists under the general law.

12 NEW SECTION. **Sec. 14.** SEVERABILITY. If any provision of this act
13 or its application to any person or circumstance is held invalid, the
14 remainder of the act or the application of the provision to other
15 persons or circumstances is not affected.

16 NEW SECTION. **Sec. 15.** REPEALER. The following acts or parts of
17 acts are each repealed:

18 (1) RCW 82.80.040 (Street utility--Establishment) and 1991 c 141 s
19 1;

20 (2) RCW 82.80.050 (Street utility--Charges, credits) and 2006 c 301
21 s 5, 2000 c 103 s 21, & 1991 c 141 s 2; and

22 (3) RCW 82.80.060 (Use of other proceeds by utility) and 1991 c 141
23 s 3.

24 **Sec. 16.** RCW 82.80.070 and 2005 c 319 s 139 are each amended to
25 read as follows:

26 (1) The proceeds collected pursuant to the exercise of the local
27 option authority of RCW 82.80.010((7)) and 82.80.030(~~(7) and 82.80.050~~)
28 (hereafter called "local option transportation revenues") shall be used
29 for transportation purposes only, including but not limited to the
30 following: The operation and preservation of roads, streets, and other
31 transportation improvements; new construction, reconstruction, and
32 expansion of city streets, county roads, and state highways and other
33 transportation improvements; development and implementation of public
34 transportation and high capacity transit improvements and programs; and

1 planning, design, and acquisition of right-of-way and sites for such
2 transportation purposes. The proceeds collected from excise taxes on
3 the sale, distribution, or use of motor vehicle fuel and special fuel
4 under RCW 82.80.010 shall be used exclusively for "highway purposes" as
5 that term is construed in Article II, section 40 of the state
6 Constitution.

7 (2) The local option transportation revenues shall be expended for
8 transportation uses consistent with the adopted transportation and land
9 use plans of the jurisdiction expending the funds and consistent with
10 any applicable and adopted regional transportation plan for
11 metropolitan planning areas.

12 (3) Each local government with a population greater than eight
13 thousand that levies or expends local option transportation funds, is
14 also required to develop and adopt a specific transportation program
15 that contains the following elements:

16 (a) The program shall identify the geographic boundaries of the
17 entire area or areas within which local option transportation revenues
18 will be levied and expended.

19 (b) The program shall be based on an adopted transportation plan
20 for the geographic areas covered and shall identify the proposed
21 operation and construction of transportation improvements and services
22 in the designated plan area intended to be funded in whole or in part
23 by local option transportation revenues and shall identify the annual
24 costs applicable to the program.

25 (c) The program shall indicate how the local transportation plan is
26 coordinated with applicable transportation plans for the region and for
27 adjacent jurisdictions.

28 (d) The program shall include at least a six-year funding plan,
29 updated annually, identifying the specific public and private sources
30 and amounts of revenue necessary to fund the program. The program
31 shall include a proposed schedule for construction of projects and
32 expenditure of revenues. The funding plan shall consider the
33 additional local tax revenue estimated to be generated by new
34 development within the plan area if all or a portion of the additional
35 revenue is proposed to be earmarked as future appropriations for
36 transportation improvements in the program.

37 (4) Local governments with a population greater than eight thousand
38 exercising the authority for local option transportation funds shall

1 periodically review and update their transportation program to ensure
2 that it is consistent with applicable local and regional transportation
3 and land use plans and within the means of estimated public and private
4 revenue available.

5 (5) In the case of expenditure for new or expanded transportation
6 facilities, improvements, and services, priorities in the use of local
7 option transportation revenues shall be identified in the
8 transportation program and expenditures shall be made based upon the
9 following criteria, which are stated in descending order of weight to
10 be attributed:

11 (a) First, the project serves a multijurisdictional function;

12 (b) Second, it is necessitated by existing or reasonably
13 foreseeable congestion;

14 (c) Third, it has the greatest person-carrying capacity;

15 (d) Fourth, it is partially funded by other government funds, such
16 as from the state transportation improvement board, or by private
17 sector contributions, such as those from the local transportation act,
18 chapter 39.92 RCW; and

19 (e) Fifth, it meets such other criteria as the local government
20 determines is appropriate.

21 (6) It is the intent of the legislature that as a condition of
22 levying, receiving, and expending local option transportation revenues,
23 no local government agency use the revenues to replace, divert, or loan
24 any revenues currently being used for transportation purposes to
25 nontransportation purposes.

26 (7) Local governments are encouraged to enter into interlocal
27 agreements to jointly develop and adopt with other local governments
28 the transportation programs required by this section for the purpose of
29 accomplishing regional transportation planning and development.

30 (8) Local governments may use all or a part of the local option
31 transportation revenues for the amortization of local government
32 general obligation and revenue bonds issued for transportation purposes
33 consistent with the requirements of this section.

34 (9) Subsections (1) through (8) of this section do not apply to a
35 regional transportation investment district imposing a tax or fee under
36 the local option authority of this chapter. Proceeds collected under
37 the exercise of local option authority under this chapter by a district
38 must be used in accordance with chapter 36.120 RCW.

1 NEW SECTION. **Sec. 17.** Sections 1 through 14 of this act
2 constitute a new chapter in Title 35 RCW.

3 NEW SECTION. **Sec. 18.** This act takes effect August 1, 2011.

--- END ---

Attachment 4

Frequently Asked Questions: Transportation Benefit District

July 2010



Transportation Benefit District Legislation in Effect

Through the cooperative efforts of the Association of Washington Cities (AWC) and the Washington State Associations of Counties (WSAC), significant legislation went into effect in 2007, which resulted in the most important local transportation tool for cities and counties in sixteen years – Transportation Benefit Districts (TBDs). Newly enacted 2010 legislation enhanced the TBD's authority.

TBDs are independent taxing districts that can impose an array of taxes or fees either through a vote of the people or through district board action. TBDs are flexible-- they allow cities and counties to work independently or cooperatively on addressing both local and regional transportation challenges.

Frequently Asked Questions

Background

In 1987, the Legislature created TBDs as an option for local governments to fund transportation improvements. In 2005, the Legislature amended the TBD statute to expand its uses and revenue authority. In 2007, the Legislature amended the TBD statute to authorize the imposition of vehicle fees and transportation impact fees without a public vote. In 2010, the Legislature amended the TBD statute again to clarify project eligibility, the use of impact fees, and sales tax expenditures, and make TBD governance more flexible.

What is a Transportation Benefit District (TBD)?

A TBD is a quasi-municipal corporation and independent taxing district created for the sole purpose of acquiring, constructing, improving, providing, and funding transportation improvements within the district.

Who may create a TBD?

The legislative authority of a county or city may create a TBD by ordinance following the procedures set forth in Chapter 36.73 RCW. The county or city proposing to create a TBD may include other counties, cities, port districts, or transit districts through interlocal agreements.

Who governs the TBD?

The members of the legislative authority (county or city) proposing to establish a TBD serves as the governing body of the TBD. The legislative authority is acting ex officio and independently as the TBD governing body. If a TBD includes

additional jurisdictions through interlocal agreements, then the governing body must have at least five members, including at least one elected official from each of the participating jurisdictions, or may be the governing body of a metropolitan planning organization if the TBD boundaries are identical to the boundaries of the metropolitan planning organization serving the district.

What are the boundaries of a TBD?

The boundaries of a TBD may be less than the boundaries of those jurisdictions participating in the TBD. For example, a county or city may choose to have the TBD boundaries identical with the county or city, or it may choose just to include a portion of the county or city. However, if a TBD chooses to exercise the tax authority that does not require a public vote (e.g. vehicle and impact fees), the boundaries of the TBD must be countywide, citywide, or unincorporated countywide.

Why create a TBD if the county or city legislative authority is the governing board?

A TBD is an independent legal creature. Although a TBD has many of the powers of a county and city (impose taxes, eminent domain powers, can contract and accept gifts, etc.), - it is a separate taxing district. Additionally, by being a separate legal and taxing entity, TBDs have more flexibility. For example, more than one type of jurisdiction can be part of a TBD and the boundaries can be less than countywide or citywide.

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continued

Page No. 34

Can a TBD be created without imposing fees or proposing voter approved revenue options?

Yes. A county or city takes legislative action through the ordinance process to create a TBD. The ordinance must include a finding that the creation of a TBD is in the public's interest, describe the boundaries of the TBD, and specify the activities or functions to be implemented or funded by the district. The county or city ordinance creating the TBD may also specify and authorize what fees or revenues that the TBD may pursue. The TBD, acting in its own official capacity, has the authority to identify proposed fees or revenue options.

Are TBD revenues required to be spent as they are collected?

No. The governing body which creates a TBD must develop a plan that specifies the transportation improvements to be provided or funded by the TBD. As part of this plan, the TBD's governing board can indicate if the funds will be used immediately, or if they will be collected for a specified period, prior to spending the accumulated funds. Typically, funds that are collected for a specified period before being expended are used to fully fund large projects, when bonding, or serve as a match for state or federal funds that may only become available in a specified time frame.

Does a TBD have to meet certain tests?

There are three threshold tests for transportation improvements in a TBD: 1) the type of transportation improvement contained within the boundaries of the TBD, 2) whether the improvements are identified in any existing state, regional, county, city or eligible TDB jurisdiction's (port or transit) transportation plan and that the improvements are 3) necessitated by existing or reasonably foreseeable congestion levels. The definition of "congestion" does not have a set standard in law; each TBD has the discretion to tailor and make its own determination of congestion levels when implementing its TBD ordinance.

What transportation improvements can be funded by a TBD?

The definition of transportation improvements is broad. This can include maintenance and improvements to city streets, county roads, state highways, investments in high capacity transportation, public transportation, transportation demand management and other transportation projects identified in a regional transportation planning organization plan or state plan.

In developing criteria for a transportation improvement, it can include one or more of the following: reduced risk of transportation facility failure and improved safety; improved travel time; improved air quality; increases in daily and peak period trip capacity; improved modal connectivity; improved freight mobility; cost-effectiveness of the investment; optimal performance of the system through time; and other criteria, as adopted by the governing body.

Note: In 2010, cities within King County are specifically authorized to provide or contract for supplemental

public transportation improvements to meet the mobility needs of the city, and may contract for such improvements with private and nonprofit entities and may also form public-private partnerships.

If a jurisdiction uses the SEPA process to collect impact fees, would this preclude a TBD from using impact fees?

No. However, the law requires the jurisdiction to provide a credit to commercial or industrial developments that are subject to SEPA, or transportation impact fees authorized under GMA. This is commonly called a "no double-dipping" provision.

continued

What revenue options do TBD's have?

TBD's have several revenue options subject to voter approval:

- Property taxes – a 1-year excess levy or an excess levy for capital purposes;
- Up to 0.2% sales and use tax;
- Up to \$100 annual vehicle fee per vehicle registered in the district; and
- Vehicle tolls.

Please Note: There are exemptions or unique requirements when using the vehicle fee or vehicle tolls.

TBD's have two revenue options that do not require voter approval, but are subject to additional conditions:

1. Annual vehicle fee up to \$20. This fee is collected at the time of vehicle renewal and cannot be used to fund passenger-only ferry service improvements.
2. Transportation impact fees on commercial and industrial buildings. Residential buildings are excluded. In addition, a county or city must provide a credit for a commercial or industrial transportation impact if the respective county or city has already imposed a transportation impact fee.

Please Note: Foregoing a vote is an option only. A county or city still has the option of placing either the annual fee of up to \$20 or the impact fees to the vote of the people as an advisory vote or an actual requirement of imposition.

What are the additional conditions required to impose revenue options not subject to voter approval?

To impose either fee, the TBD's boundaries must be countywide or citywide, or if applicable, in the unincorporated county.

Vehicle Fees:

When the Legislature revised the TBD authority in 2007 to enable councilmanic vehicle fees, it was intended to ensure a county-wide or regional approach for first consideration of this new option. That is why counties had the exclusive authority of the \$20 vehicle fee for the first six months

after enactment of the 2007 legislation. Today, a county that creates a countywide TBD (incorporated and unincorporated areas) and proposes to impose up to a \$20 non-voted vehicle fee should first attempt to impose a countywide fee to be shared with cities by interlocal agreement. Sixty percent (60%) of the cities representing seventy-five (75%) of the incorporated population must approve the interlocal agreement for it to be effective. The Legislative expectation is that if an interlocal agreement cannot be reached between a county and city or cities, the county is authorized to create a TBD and impose the fee only in the unincorporated area of the county.

Credits must be provided for previously imposed TBD vehicle fees. Credits are not required for voter approved vehicle fees.

Commercial and Industrial Transportation Impact Fees:

A TBD that is either countywide or citywide must provide a credit for a commercial or industrial transportation impact fee if the respective county or city has already imposed a transportation impact fee. This is commonly called a "no double-dipping" provision.

If we create a countywide TBD for the up to \$20 vehicle fee, how is the revenue distributed to cities?

The revenue must be shared according to the interlocal agreement. The law does not prescribe what the interlocal agreement contains. Consequently, the revenue can be shared by population, number of vehicles within each jurisdiction, project list, a combination of these, or whatever the county and cities can reach agreement on.

What happens if a city imposes the up to \$20 vehicle fee and then the county imposes a countywide fee without voter approval?

The law requires TBDs to provide a credit for vehicle fees previously imposed by a TBD.

continued

For example, if a city was the first to create a TBD and impose a \$20 vehicle fee and subsequently its county creates a countywide TBD imposing a \$20 vehicle fee, the county TBD must provide a \$20 credit against its fee for vehicles registered within the city. As a result, no fee would be collected by the county TBD from vehicles registered within the city. Additionally, the city would not be part of the interlocal agreement with the county or be included in the number/percentages needed for the interlocal agreement to be effective.

However, if in the same example, the city TBD imposed only \$10 of the \$20 vehicle fee and the county TBD imposed a countywide \$20 vehicle fee, only a \$10 credit would be provided for vehicles registered within the city. The county TBD would collect \$10 from vehicles registered in the city. Consequently, the county TBD would need to include the city in the interlocal agreement discussions and the city is included in the number/percentages needed for the interlocal agreement to be effective.

If a county or city is considering the \$20 vehicle fee, how does a county or city estimate revenues?

Currently, no TBD has been in effect for an entire year and therefore revenue estimates and histories are incomplete. What TBDs around the state have learned to date: vehicles per household calculations vary significantly around the state. Statistical data shows that there tends to be about one vehicle per person in rural areas and 0.8 vehicles per person in urban areas. Another factor to strongly consider is seasonality; vehicles sales are not evenly distributed throughout the year and this will affect monthly receipts. Finally, a city or county must understand and recognize that other factors such as people failing to register their vehicles, and data accuracy can affect actual revenues when compared to forecasted revenues.

What other requirements should I be aware of?

Revenue rates, once imposed, may not be increased, unless authorized by voter approval.

If project costs exceed original costs by more than 20 percent, a public hearing must be held to solicit public comment regarding how the cost change should be resolved. This is typically called a material change policy.

The TBD must issue an annual report to include the status of project costs, revenues, expenditures, and construction schedules.

The TBD must be dissolved upon completion of the project(s) and the payment of debt service.

Who has imposed a TBD?

The cities of Lake Forest Park, Edmonds, Des Moines, Olympia, Prosser, and Shoreline imposed the \$20 vehicle fee. Ridgefield and Sequim passed the 2/10% sales tax. Point Roberts and Liberty Lake formed TBD's prior to the legislative changes in 2005.

Checklist

For a checklist that highlights many of the important considerations when creating a Transportation Benefit District (TBD), please see www.awcnet.org/tbd.

Eligibility requirements vary. For additional questions on Transportation Districts, please contact AWC staff Ashley Probart at ashleyp@awcnet.org Sheri Sawyer at sheris@awcnet.org.

Attachment 5

Frequently Asked Questions: Street Maintenance Utility District

Street Maintenance Utility

A proposed voter option for cities



Basic questions and answers

What is it?

A street maintenance utility is just that, a utility, like a water, stormwater and sewer utility. By law, utility funds are required to be dedicated for the purposes of maintaining, repairing, and replacing a system that is used by those who benefit from it. Most utilities work the same: If a citizen or business benefits from the use of the utility, then they pay for it. Usually the more they use the utility, the more they pay. For example, customers are charged by the amount of power or water they consume.

The street utility is being successfully used in other states such as Oregon, and was previously used in Washington. The street maintenance utility option being prepared for the 2011 Legislature is designed to be constitutionally sound and fair – costing only a few dollars a month for homeowners.

Why is a dedicated street maintenance utility funding option necessary?

Cities are seeing more traditional sources of revenue either reduced or eliminated, and the economic downturn has made it difficult if not impossible for cities to use their general funds to keep street maintenance and preservation funding alive.

Consider:

- **City revenues are depleted:** Unlike the state's constitutionally protected gas tax, nearly three of every four city transportation dollars rely on transfers from the city operating budget – which means competing against other city services such as police and fire protection. In this economy, many cities simply do not have the resources to fund street maintenance.
- **Initiatives have stripped traditional transportation revenues:** I-695, I-747, and I-776 stripped away revenue that cities used to maintain, operate, replace, and improve their transportation systems.



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- **State assistance is declining:** The Transportation Improvement Board's ability to partner is reduced due to declining gas tax receipts- some of the TIB's programs have been shelved, to the point that its executive director has predicted "corridor" grant funding will not be available for at least the next four years. Another potential resource, the Public Works Assistance Account, was dried up in 2009 when the legislature redirected \$368 million in local government low-interest loan funds to the state's general fund. The state is likely to take similar action in the upcoming 2011 session.
- **Funds collected from impact fees must address capacity improvements, not maintenance:** Once capacity improvements are made, they begin to deteriorate. There is no dedicated street funding mechanism to preserve this investment.
- **Maintaining and preserving streets is far more cost-effective than completely rebuilding them:** The transportation system is not unlike your house or your roof – it must be continuously maintained, operated, and replaced as it ages to assure the continued use of the system to the level of service that residents and businesses expect and deserve. And maintenance and repairs are cost effective – transportation engineers estimate it can cost as much as 15 times more to completely rebuild and replace a roadway than it costs to maintain and repair it.
- **The street maintenance utility proposal is premised on fairness:** Those who utilize, benefit from, and impact the street system are the ones who pay for the maintenance and upkeep of that system.

What would a street maintenance utility be used for, and what do you use as the basis for determining rates?

AWC, joined by several individual cities, has designed a street maintenance utility option that would be used for "curb-to-curb," basic street maintenance and preservation.

continued

What if my business uses trip reduction measures such as vanpools or bus passes?

If adopted, the street maintenance utility would encourage commute trip reduction measures. A business that demonstrates vanpooling, carpooling, or bus passes is eligible for credits because they reduce trips and wear and tear on the street system.

Examples of monthly fees

From City of Corvallis, Oregon's Transportation Maintenance Fee

Type of property	Trips	Monthly fee
Single family	9.6	\$1.36
Multi-family (8 units)	53	\$7.53
Office bldg (21,128 sq ft)	232	\$4.87
Small retail (23,500 sq ft)	532	\$11.17
Grocery store (48,000 sq ft)	2,569	\$53.80
Large retail (132,000 sq ft)	3,962	\$83.20
Hewlett-Packard	6,459	\$135.64

Are rates predictable? Can they be phased in? How much are they?

Yes. This voter-approved option requires rates to be phased in over a four year period. Each city establishes its own rates. For a typical urban city experiencing over 500,000 trips on its system and experiencing a failing transportation system:

- Single family residence could expect \$2 to \$8 a month (Oregon cities are about \$4-\$5 a month)
- Senior housing and multifamily housing ranges from 10% to 70% of a single family residence.
- Industrial buildings could expect \$10 - \$15 a month for every 10,000 square feet.
- Restaurants, office buildings, and other commercial building categories could expect rates of \$15 to \$35 per month for every 10,000 square feet
- Shopping centers in Corvallis, Oregon, pay about \$6 per month for every 10,000 square feet (which are apportioned among the many businesses within the shopping center).

What about citizen and business accountability?

- Street utility charge funds are required to be used for transportation purposes only- they cannot be redirected to a city's operating budget.
- Appeals of rates or rate classifications are heard by an independent examiner.
- An annual report indicating program status is required.
- A street utility advisory board representing the user classifications must be included as part of the ordinance.
- The street utility charge will be identified as a line item as part of a residential or business overall utility bill.

When could this be implemented?

If adopted, the law would go into effect July 2011. Cities would then be required to go through the public involvement and rate setting process, seeking input from stakeholders from the various user groups, and gathering the necessary data to determine appropriate rates as part of the process of going before the voters.

For questions or more information

Ashley Probart, Legislative & Policy Advocate
ashleyp@awcnet.org
(360) 753-4137



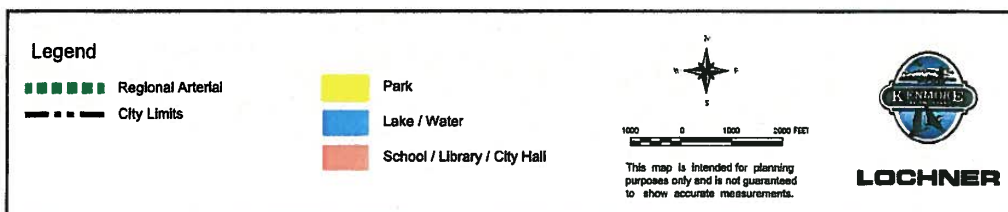
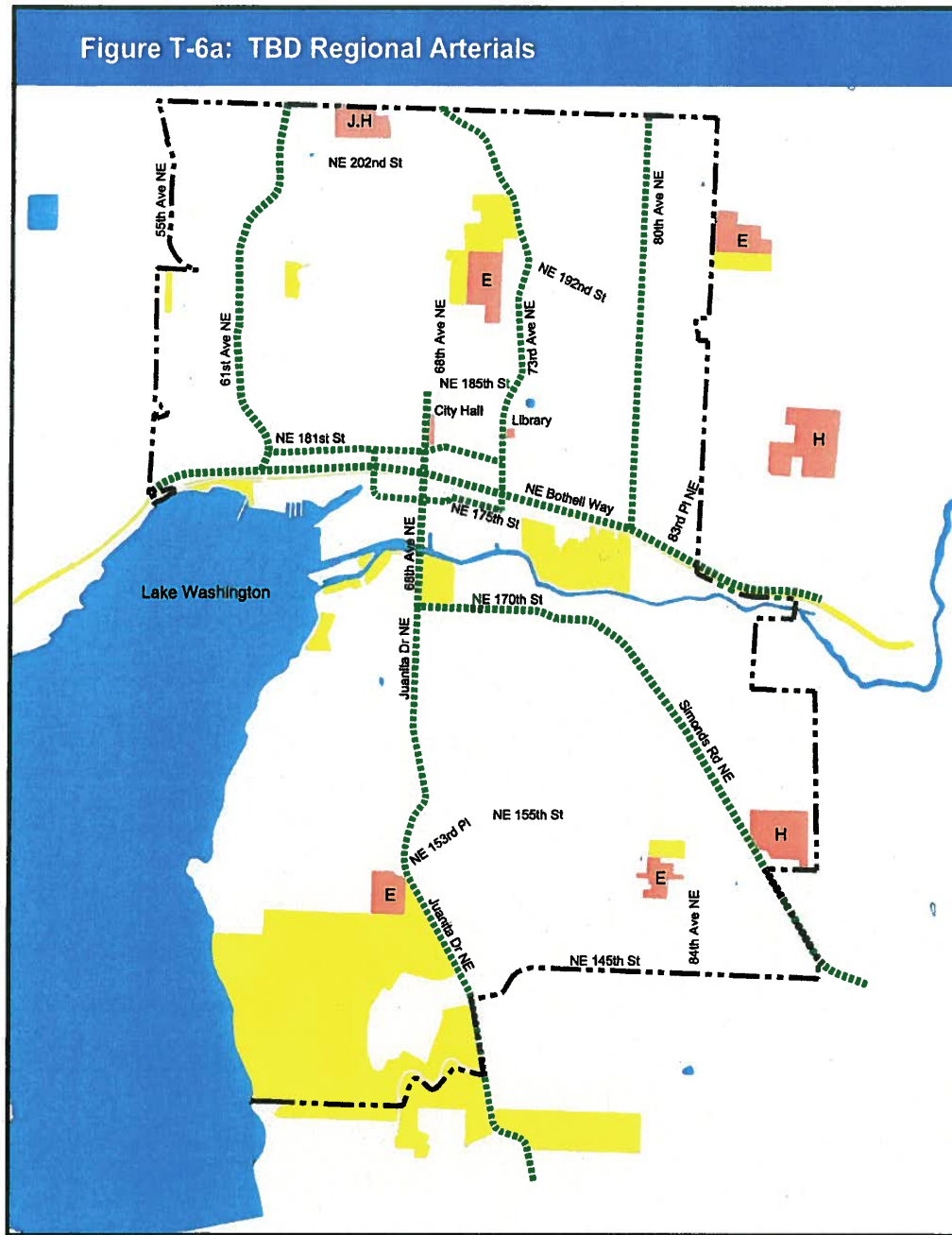
Attachment 6

Figure T-6: 2010-2016 Functional Classification of Roadways

Attachment 7

Figure T-6a: TBD Regional Arterials

Figure T-6a: TBD Regional Arterials



Attachment 8

Figure T-6b: Congested Regional Arterials

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Briefing on SR 520 Tolling and monitoring efforts.			February 13, 2012
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Engineering	Ron Loewen	Ron Loewen	425 398 8900
COST OF PROPOSAL: Staff Time: 60 hours to date		ACCOUNT NUMBER: 0132	
AMOUNT BUDGETED: \$0		NAME AND FUND #: General Fund Engineering	
ATTACHMENT(S) TO AGENDA PACKET ITEM:			
• Attachment A – SR 520 Tolling Vehicle Diversions • Attachment B – Cross Lake Vehicle Volume Graph			
SUMMARY STATEMENT:			
The diversion in vehicle trips as a result of the SR 520 tolling is still in flux. We continue to see motorists adjusting to the varying travel alternatives and the recent storm events have exacerbated the development of a consistent pattern. The vehicle counts for last week indicate that SR 522 is experiencing a 12% daily increase in eastbound trips and 9% in the westbound trips. This compares with the Washington State Department of Transportation most recent diversion estimates of 2 to 3%. As more people become accustomed to paying tolls or other modes we may see the current percentages drop. Attachment A is a graphic depicting daily vehicle volume changes for the week of January 23rd by direction for the major corridors surrounding Lake Washington. At the top in the green boxes the SR 522 corridor is presented. The green designates these volumes are higher than what would be typically anticipated. The percentages are given and the numeric value in black was the weekly average and the value in yellow is the typical value. The vehicle count location is just east of 68th Avenue NE. The green highlighted boxes at the bottom of the page are I-90 and, although the percentages are similar to SR 522, the actual volumes are considerably more. The reddish boxes in the center represent SR 520 and are colored to denote a reduction in traffic volumes below the typical level. These values show a diversion of 33,700 daily vehicle trips across the SR 520 bridge, a 33% reduction. The trips were diverted to SR 522 (4,100, (12%)) and I-90 (16,000 (48%)). The remainder 13,600 (40%) have disappeared. They have diverted to other routes, carpooled, used transit, or simply declined to take the trip. Attachment B provides a graphic of how traffic volumes have varied since tolling commenced. The first series of values represent the daily volumes and the last two values are the daily volume based on a weekly average. The baseline represents the typically vehicle volume for the particular roadway. For example on January 6th the I-90 daily vehicle volumes was 20,000 vehicle trips higher than the typical volumes. Note also the significant drop in SR 520 volumes at the start of tolling and the significant reduction in overall lake crossings. These rose the ensuing week until the new year holiday. Once the holiday			

was over there appears to have been some erratic shifting of motorists trying to find acceptable routes. This appears to be leveling out looking at the values just prior to the snow storm and last weeks.

The City and WSDOT are conducting additional traffic counts this week, using tube counters at multiple points to develop more refined numbers and on additional corridors. WSDOT is also monitoring vehicle speeds through the SR 522 corridor. There has been some reduction in speeds however because of the continued shifting of traffic volumes and changes in weather it is still to early to reach any conclusions.

The diversions to METRO and Sound Transit have not been determined. Bus boardings have not been gathered and it could be several weeks before we have accurate data. We have seen a rise in park and ride lot usage and the number of pass bys. That is the number of times buses pass a bus stop because there is insufficient room to allow any more passengers on the bus.

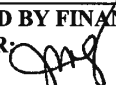
WSDOT and local jurisdictions meet on a weekly basis to discuss the volumes and convey antidotal information.

CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION:

Council's desire to monitor impacts from the SR 520 tolling operations and impacts on SR 522 and the Kenmore Community.

RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION:

No Action

**REVIEWED BY FINANCE
DIRECTOR:** 

**REVIEWED BY CITY
ATTORNEY:**

APPROVED BY CITY MANAGER: 

TODAY'S DATE:
February 1, 2012

REVISION DATE(S):

FILE NAME & PATH (HYPERLINK):
S:\SR520 Tolling\Agenda Bill
021312.doc

SR 520 Tolling: Traffic Monitoring
Daily Mainline Volumes
1/23/12 - 1/27/12 average

Base data: M-F, 10/29-11/18 & 11/26-12/16

% change 1/23/12 - 1/27/12 median	above range of typical variation	below range of typical variation
	(10th/90th percentile)	

