

City of Kenmore



City of Kenmore - 18120 68th Avenue NE - PO Box 82607, Kenmore WA 98028 - Phone: 425-398-8900 - Fax: 425-481-3236

City of Kenmore
City Council Regular Meeting Agenda
7:00 p.m., Monday, July 25, 2011
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. Our public meetings are accessible to all members of the public. If you require special accommodations, please call the City Clerk at least three (3) days prior to the meeting.

I. CALL TO ORDER REGULAR MEETING

II. ROLL CALL

III. FLAG SALUTE

IV. AGENDA APPROVAL

V. CONSENT AGENDA

- A. Minutes of the June 27, 2011 Regular Council Meeting.
- B. Approval of Claim Nos. 24191-24275 in the Amount of \$1,333,811.90 for the Period Ending July 13, 2011.
- C. Accept June 2011 Financial Reports for the City of Kenmore - Joanne Gregory, Finance Director
- D. Approve Project Design Contract No. 11-C955 with Puget Sound Energy for Undergrounding Aerial Facilities as Part of the 61st Avenue NE and NE 181st Street Signal Improvement Project - Ron Loewen, City Engineer
- E. Authorize the City Manager to Execute Contract No. 11-C956 with Perteet, Inc., for Surveying Services in the Amount of \$70,000 - Ron Loewen, City Engineer
- F. Motion to Cancel all the Regularly Scheduled Council Meetings for the Month of August, 2011.

VI. CITIZEN COMMENTS

This is an opportunity to express your views on issues that are important to you and to the community. Please limit your comments to three (3) minutes.

VII. PUBLIC HEARING

- A. Public Hearing to Receive Public Testimony Related to Proposed Revisions to the Kenmore Municipal Code Relating to Streets and Bridges; Amending Kenmore Municipal Code Title 12 Chapters 05, 10, 15, 20, 35, 40, and 55 - Ron Loewen, City Engineer

VIII. CONTINUED PUBLIC HEARING

- A. Continued Public Hearing to Receive Further Public Testimony Relating to Proposed Administrative Amendments to Title 17 (Land Division), Title 18 (Zoning) and Title 19 (Planning Policies and Procedures) of the Kenmore Municipal Code - Lauri Anderson, Senior Planner and Debbie Bent, Director of Planning and Community Development

IX. BUSINESS AGENDA

- A. Council Discussion, Direction and Possible Adoption of Ordinance No. 11-0329 An Ordinance of the City of Kenmore, Washington; Repealing Title 17 Land Division, Title 18 Zoning and Title 19 Planning Policies and Procedures of the Kenmore Municipal Code; Adopting New Title 17 Land Division, New Title 18 Zoning and New Title 19 Land Use Policies and Procedures of the Kenmore Municipal Code; Adopting Amendments to KMC Sections 2.20.120.A, 12.58.070.C, 12.75.010, 12.75.020.A, 12.75.020.F.1, 13.35.025.B.7.2, 13.35.030.Z, 13.40.070.F, 15.25.050.A.7, 15.25.050.A.10, 15.25.050.A.11, 15.25.050.A.12, 15.25.050.A.16, 15.25.070.A.5, 15.25.070.C, 15.25.140.A and 21.20.070.B to Provide Consistent Cross-Referencing to Title 17, Title 18 and Title 19 KMC; Amending Title 20 KMC Development Permits by Adding Chapter 20.47 Road and Park Impact Fees and Amending Section 20.50.010; and Establishing an Effective Date - Lauri Anderson, Senior Planner and Debbie Bent, Director of Planning and Community Development

IX. BUSINESS AGENDA

- B. Adopt Ordinance No. 11-0330 An Ordinance Revising the Kenmore Municipal Code Relating to Streets and Bridges; Amending Kenmore Municipal Code Title 12 Chapters 05, 10, 15, 20, 35, 40, and 55 - Ron Loewen, City Engineer

X. COUNCILMEMBER COMMENTS/REPORTS

XI. ADJOURNMENT

Upcoming Meetings:

All Regularly Scheduled Council Meetings are Cancelled for the Month of August, 2011.
(Tentative)

September 12, 2011 7:00 p.m. Regular Council Meeting

City of Kenmore
City Council Regular Meeting
Minutes
June 27, 2011

CALL MEETING TO ORDER – Mayor David Baker called the regular 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 42.30.110(1)(i). He stated that the executive session will last for approximately 30 minutes and that no action is anticipated when the meeting is reconvened back to regular session.

RECONVENED BACK TO REGULAR SESSION – Mayor David Baker called the regular meeting back to order at 7:00 p.m.

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

Staff present: Fred Stouder, City Manager; Nancy Ousley, Assistant City Manager; Joanne Gregory, Finance Director; Ron Loewen, City Engineer; Jennifer Gordon, Public Works Operations Manager; Cliff Sether, Police Chief; Rod Kaseguma, City Attorney; and Lynn Suskin, City Clerk

FLAG SALUTE

Lily, Claire and Connor Mortensen led the flag salute.

AGENDA APPROVAL

The agenda was approved unanimously.

CONSENT AGENDA

Councilmember Laurie Sperry moved to approve the consent agenda as submitted. Councilmember Bob Hensel seconded the motion to approve the Minutes of the May 16, 2011 Regular Council Meeting and May 23, 2011 Regular Council Meeting; Approve Claim Nos. 24043 - 24106 in the amount of \$601,358.24 for the period ending June 15, 2011; Accept April 2011 Financial Reports for the City of Kenmore, Washington; Accept 2011 State Legislative Session Report Prepared by Gordon Thomas Honeywell; and Authorize the City Manager to Execute an Interlocal Agreement (Contract 11-C951) with Northshore Utility District with an Estimated Value of \$55,000 for Sewer Improvements to be Completed as Part of the NE 145th Street Signal Project. The motion passed unanimously.

CITIZEN COMMENTS

Dave Crawford, 7534 NE 175th St., Kenmore, was present to state his concerns relating to the public record process.

BUSINESS AGENDA

Discussion of 61st Avenue NE and NE 181st Street Signal Improvement Project Scope of Work and Right of Way Requirements - Ron Loewen, City Engineer and Joanne Gregory, Finance Director were present to provide a report. They reviewed that staff is recommending Alternative 4. They were also available to answer any questions.

Discussion followed.

Councilmember Laurie Sperry moved to postpone further consideration of this motion until after the discussion and consideration of the Capital Improvement Program. Councilmember John Hendrickson seconded the motion. The motion passed 4-3 with Councilmember Laurie Sperry, Councilmember John Hendrickson, Councilmember Allan Van Ness and Mayor David Baker voting aye.

Review and Discussion of the Adopted 2011-2016 Capital Improvement Program (CIP) - Ron Loewen, City Engineer, was present to provide a report. He was also available to answer any questions.

City Manager Fred Stouder reviewed the reason why staff is recommending Alternative 4.

Discussion followed.

Deputy Mayor Milton Curtis moved to accept the CIP Items, minus Item 5 or T-7. Councilmember Allan Van Ness seconded the motion. The motion passed 6-1 with Councilmember Bob Hensel voting no.

Councilmember Glenn Rogers moved to go with Option No. 5. Deputy Mayor Milton Curtis seconded the motion. The motion failed 2- 5 with Councilmember Allan Van Ness and Deputy Mayor Milton Curtis voting aye.

Councilmember Bob Hensel moved to proceed with Alternative No. 4. Councilmember Glenn Rogers seconded the motion. The motion passed 6-1 with Deputy Mayor Milton Curtis voting no.

COUNCILMEMBER COMMENTS/REPORTS

Councilmember John Hendrickson announced that he had met with the consultant that is conducting the police services analysis. He stated that he wants to know Kenmore's policy on retention vaults. He stated that he had submitted some financial worksheets that showed revenues and operating surplus. He wants the City to look at purchasing a lot on 61st. He said that we could use the money that Senator Murray promised the City.

Mayor David Baker stated that Senator Murray requests transportation money every year on behalf of Kenmore. He explained to Councilmember John Hendrickson that transportation dollars have been drastically reduced and Senator Murray's earmarks are requests, not promises.

City of Kenmore - Regular Council Meeting Minutes
June 27, 2011

Councilmember Laurie Sperry reminded everyone that the new Kenmore Library Preview event is scheduled for June 29th.

Councilmember Glenn Rogers requested clarification on what Council rule allows one individual Councilmember to direct the City Manager and staff.

Mayor David Baker encouraged the Council to attend the State Auditor's entrance meeting.

Councilmember Allan Van Ness further clarified that when there are no earmarks, there are no transportation monies. He reviewed the highlights of the recent Association of Washington Cities conference he, and other Councilmembers, attended.

Deputy Mayor Milton Curtis recommended that all the Councilmembers register on-line to ensure they receive the Jurassic Parliamentary Newsletter.

Mayor David Baker moved that the next regularly scheduled Town Hall meeting be cancelled. Councilmember Allan Van Ness seconded the motion. The motion passed 6-2 with Councilmember John Hendrickson and Councilmember Bob Hensel voting no.

Mayor David Baker reviewed some of the highlights from the recent Association of Washington Cities conference he, and other Councilmembers, attended. He announced that through the National League of Cities we now have prescription discount cards available at City Hall for the public. He also announced that he had recently been elected to the Association of Washington Cities Board of Directors.

ADJOURNMENT

Mayor David Baker adjourned the regular meeting at 9:15 p.m.

Mayor David Baker

ATTEST:

Lynn Suskin, City Clerk

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 24191 - 24275 which total \$1,333,811.90 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.

 7/15/11
City Manager Date

		Finance Director	Date
Check	Name	Description	Net amount
24191	NEXTEL COMMUNICATIONS	May 2011 Staff & PD Cell Phones	\$ 825.84
24192	DANSOUND INC	Summer Concert Sound - 7/7/11	1,012.88
24193	BIG BUBBA DOG LLC	Summer Concert Performer-7/7/11	1,500.00
24194	CLUB NORTHWEST	Wellness Walk Registration	30.00
24195	EXTREME PROMOTIONS	Staff Logo Wear	522.00
24196	BAKER, DAVID	June Bus. Mtgs Mileage & Per Diem	95.74
24197	NATIONWIDE FINANCIAL 401a	Payroll Entry	9,487.86
24198	NATIONWIDE RETIREMENT SOLUTIONS 457	Payroll Entry	1,570.00
24199	ICMA RETIREMENT TRUST 457 - 304745	Payroll Entry	2,219.22
24200	DRS 457	Payroll Entry	1,706.66
24201	AFLAC	Payroll Entry	742.87
24202	CITY OF KENMORE FS	Payroll Entry	176.96
24203	BANK OF AMERICA 941	Payroll Entry	10,861.76
24204	WA GUARANTEED EDUCATION TUITION	Payroll Entry	415.00
24205	DEPARTMENT OF RETIREMENT SYSTEMS	Payroll Entry	7,754.42
24206	DEPARTMENT OF LABOR AND INDUSTRIES	Payroll Entry	1,229.99
24207	UNITED WAY OF KING COUNTY	Payroll Entry	92.00
24208	NATIONAL LIFE OF VERMONT	Payroll Entry	328.34
24209	AMERICAN GENERAL	Payroll Entry	399.36
24210	DANSOUND INC	Summer Concert Sound-7/14/11	1,012.88
24211	FEARON, CLINTON	Summer Concert Performer-7/14/11	2,000.00
24212	ACTION ENTERTAINMENT	4th of July DJ Services	695.00
24213	CITY OF LAKE FOREST PARK	June 2011 Streets Contract	59,076.00
24214	COASTWIDE LABORATORIES	Facility Maintenance Supplies	112.83
24215	DUNN LUMBER COMPANY	Log Boom Park Pier Project	1,759.14
24216	FRUHLING SAND & TOPSOIL	Overlay Prep Dump Fees	262.50
24217	FULL MAINTENANCE GARDENING	6700 Building Landscape Maintenance	373.40
24218	GEOENGINEERS INC	61st Ave NE Slide Evaluations	4,825.55
24219	CALPORTLAND COMPANY	Curb Repair	125.12
24220	H.W. LOCHNER, INC.	SR 522 Corridor Improvements	27,784.89
24221	HOME DEPOT	Summer Concert & Sr. Center Supplies	130.61
24222	HOPELINK	Q2 2011 Transitional Housing	1,493.75
24223	JET CITY PRINTING	Fireworks Posters Printing	62.41

VB. Approval of Claim Nos. 24191-24275 in the Amount of \$1,333,811.90 for the Period Ending July 13, 2011.

24224 KING COUNTY ANIMAL SVCS	Pet Licenses	425.00
24225 KING COUNTY FINANCE	May 2011 Adult Detention	1,699.30
24226 KING COUNTY SHERIFF	Jan - May, 2011 Police Services	1,100,970.24
24227 LIGHTHOUSE CONSULTING INC	June 2011 IT Services & Software	1,717.51
24228 NORTSHORE UTILITY DIST	Simon Property Water Line	2,054.79
24229 OFFICE DEPOT	Copy Paper & Supplies	74.02
24230 OFFICE TEAM	Temp. Office Employee-6/24/11	142.50
24231 PACIFIC TOPSOILS	June 2011 Landscape Maintenance	262.58
24232 PUGET SOUND ENERGY	Electricity Bills	8,364.68
24233 CEMEX	Overlay Prep Materials	1,817.23
24234 SEATTLE TIMES	June 2011 Legal Notices	691.54
24235 STEWART BEALL MACNICHOLS	June 2011 Public Defender Services	3,000.00
24236 WASHINGTON STATE DEPT OF INFO SERV	June 2011 ListServ & Software	222.60
24237 WA STATE DEPT OF TRANSPORTATION	May 2011 Fiber Optic Undergrounding	458.76
24238 COLUMBIA RIDGE LANDFILL	Dump Fees	12.20
24239 WONDERLAND DEVELOPMENT	Q2 2011 Wonderland Development	2,875.00
24240 AURORA RENTS	4th of July Light Tower Rental	1,214.14
24241 VAN NESS, ALLAN	June Bus. Mtg. & Conf. Mileage	387.53
24242 SNOHOMISH COUNTY	June 2011 Inmate Housing	18,830.00
24243 SNOHOMISH COUNTY	June 2011 Inmate Medical	137.94
24244 KONICA MINOLTA BUSINESS SOLUTIONS	Q2 2011 Photocopier Lease & Usage	2,373.05
24245 SOUND LAW CENTER	Hearing Examiner Services	1,634.50
24246 KELLY PRINTING & GRAPHICS	Budget at a Glance Printing	1,750.91
24247 BANNER BANK CS	ASAP Supplies & Equipment	553.90
24248 NATIONAL ALLIANCE ON MENTAL ILLNESS	Q2 2011 NAMI Eastside	400.00
24249 DIGITAL REPROGRAPHICS SERVICES INC.	Wayfinding Sign Mock Up	73.86
24250 CANOPIES BY FRED	Fold Up Canopy	647.15
24251 QUALITY BUSINESS SYSTEMS	June 2011 Photocopier Usage	1,107.67
24252 BIS	July 2011 Website Hosting & Updates	460.00
24253 EVER-MARK, LLC	2011 Summer Concert Posters	221.08
24254 SHRED-IT	Document Shredding Services	49.50
24255 SHATTUCK, NANCY	June 2011 DV Advocate	800.00
24256 ALCALDE & FAY	June 2011 Government Affairs	5,020.12
24257 SUNBELT	Overlay Prep Rental Tools	2,178.44
24258 COMCAST	July 2011 CH Internet Service	109.90
24259 CLARITY SIGNS	Community Event Sponsor Signs	514.65
24260 GORDON THOMAS HONEYWELL	June 2011 Consulting	3,062.83
24261 HORIZON DISTRIBUTORS INC	SR 522 Irrigation Supplies	233.42
24262 SARAH ROBERTS	June 2011 Prosecution Services	9,300.00
24263 FRONTIER	July 2011 Phone Services	858.04
24264 FAZZARI MARKETING	Summer Concert Magnets Printing	278.11
24265 SUSSMAN/PREJZA & CO, INC	June 2011 Wayfinding & Signage	1,270.35
24266 PAWS	June 2011 Animal Sheltering	480.00
24267 INDEPENDENT STATIONERS	Misc. Office Supplies	357.01
24268 S & S UPHOLSTERY	Custom Dias Cover	1,067.62
24269 BANNER BANK BH	Membership Dues & Keys	135.95
24270 HOPKINS, CRAIG	June 2011 Mileage Reimbursement	66.30
24271 BARCLAY DEAN ARCHITECTUAL PRODUCTS	City Hall Annual Maintenance	711.75
24272 KELLY THOMAS, INC.	Police Relocation Improvements	11,587.29
24273 SMITH, JARRETT	Journal & Card Holder Reimbursement	50.35
24274 BOWHEAD ENVIRONMENTAL & SAFETY	SudSafe Car Wash Kit	414.59

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PRIOR VENDOR ACTIVITY**Previous
YTD**

3CMA	\$ 375.00
A+ CONFERENCING	146.85
AA PARTY RENTALS	379.96
ACTION ENTERTAINMENT	395.00
ACTIVE SHOOTER TRAINING LLC	815.90
ADT SECURITY SERVICES	812.26
AFLAC	6,581.12
ALCALDE & FAY	40,359.90
ALLIANCE OF PEOPLE W/ DISABILITIES	386.25
ALLIED WASTE SERVICES #172	5,697.70
ALPHA COURIER SERVICES	33.60
AM TEST, INC	1,000.00
AMERICAN GENERAL	2,889.30
AMERICAN PLANNING ASSOCIATION	1,501.00
AMERICAN PUBLIC WORKS ASSOCIATION	503.42
AMERICAN SOCIETY OF COMPOSERS	305.00
AMES2BFIT	50.00
ANDERSON, LAURI	27.94
ANDONIADIS INC	826.17
ARGENS	15.88
ASP, ANGELA	210.00
ASSOCIATION OF WA CITIES	13,970.00
AT WORK	1,230.25
AURORA RENTS	607.48
AWC EMPLOYEE BENEFITS	239,449.66
BABB, MICHELLE	186.92
BAKER, DAVID	2,292.55
BANK OF AMERICA 941	183,896.20
BANNER BANK BH	327.66
BANNER BANK CS	4,406.88
BANNER BANK DB	930.49
BANNER BANK JG	7,370.57
BANNER BANK JGORDON	6,226.61
BANNER BANK KENMORE	22,575.94
BANNER BANK LB	1,855.30
BANNER BANK LD	5,304.49
BANNER BANK NO	3,290.18
BASTYR UNIVERSITY	194,494.20
BAYLES, GREGORY	50.00
BEEGEE TOLPA	700.00
BEKINS NORTHWEST	303.45
BENNETT, STUART	29.36
BIS	3,250.00
BLACKBAUD	4,956.23
BLUE WAVE CONSTRUCTION, INC	24,671.83

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BODINE CONSTUCTION SERVICES, INC	383.25
BOTHELL SKI & BIKE	120.44
BRAVO ENVIRONMENTAL SERVICE	108,003.47
BULGER SAFE & LOCK, INC.	98.55
C. ANDERSON & CO.	1,209.98
CALIBRE HOMES, INC	7,500.00
CALPORTLAND COMPANY	2,037.77
CARLSON, THOMAS G.	858.16
CASCADE PEST CONTROL	1,242.86
CATHOLIC COMMUNITY SERVICES	3,012.75
CEMEX	2,909.67
CENTER FOR HUMAN SERVICES	16,140.00
CHAMPION COURIER	78.25
CHILDERS, MARK	401.00
CITY OF BELLEVUE	397,589.03
CITY OF CLYDE HILL	583.00
CITY OF KENMORE FS	2,726.27
CITY OF LAKE FOREST PARK	426,596.82
CITY OF RENTON	980.00
CITY OF SHORELINE	558.99
CLARITY SIGNS	2,087.63
CLYDE/WEST	1,215.87
COASTAL WEAR PRODUCTS INC	1,350.51
COASTWIDE LABORATORIES	4,735.77
CODE 4 PUBLIC SAFETY EDUCATION	198.00
CODE PUBLISHING COMPANY	547.50
COFFMAN, JON	183.00
COLUMBIA RIDGE LANDFILL	14,085.62
COMCAST	879.20
COMMERCIAL SOUND, INC.	1,444.26
CONSEJO COUNSELING & REF	1,250.00
CONSOLIDATED PRESS	4,383.06
CORNERSTONE ROOFING	98.50
COSTCO RETAIL SERVICES	27.62
COX PRINTING & SIGNS	399.68
CPSWQ	100.00
CROWN PRODUCTS	1,491.50
CSAT, LLC	1,600.00
CURRY, ROSS	183.00
DAILY JOURNAL OF COMMERCE	821.80
DANSOUND INC	657.00
DBM CONTRACTORS, INC	4,825.95
DELL MARKETING L.P.	4,275.06
DEPARTMENT OF ECOLOGY	5,082.52
DEPARTMENT OF LABOR AND INDUSTRIES	21,448.84
DEPARTMENT OF LICENSING	10.00
DEPARTMENT OF RETIREMENT SYSTEMS	115,201.50
DEVRIES, DENIS	118.32
DIGITAL REPROGRAPHICS SERVICES INC.	1,259.30
DOWL HKM	11,725.00
DRS 457	26,348.06

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DURRANT, JEFF	879.25
EARTHCORPS	15,204.18
EAST JORDAN IRON WORKS	1,152.48
EFFICIENCY INC	949.37
EMERGENCY FEEDING PROGRAM	2,500.00
EMERGENCY SERVICE COORDINATING AGCY	56,137.00
ENTERTAINMENT FIREWORKS INC	12,025.00
ENVIRONMENTAL SYSTEMS RESEARCH INST	2,554.01
ESA ADOLFSON	9,902.09
EVANS, C. WILLIAM	5,247.00
EVERGREEN PRINT SOLUTIONS	372.41
EVERGREEN SAFETY COUNCIL	175.00
EVER-MARK, LLC	1,099.25
FAZZARI MARKETING	1,411.18
FEASEL, ROBERT	665.00
FEDEX OFFICE	26.61
FERGUSON ENTERPRISES INC	9,089.62
FIRE PROTECTION, INC	1,742.70
FRONTIER	6,884.82
FRUHLING SAND & TOPSOIL	1,033.28
FULL MAINTENANCE GARDENING	2,687.30
GEOENGINEERS INC	19,783.25
GIBBONS & RIELY, PLLC	750.00
GORDON DERR	4,266.00
GORDON THOMAS HONEYWELL	24,697.14
GOVERNMENT FINANCE OFFICERS ASSOC	190.00
GRAHAM CONTRACTING LTD.	443,599.44
GRAINGER	6,478.57
GRAY & OSBORNE, INC	3,105.97
GREGORY, JOANNE	415.68
GREYSTONE COMMERCIAL SERVICE LP	174.79
GRIESEL, LEONARD	18.80
H.W. LOCHNER, INC.	134,106.17
HAMMOND COLLIER WADE LIVINGSTONE	1,050.00
HANSON CONSULTING SERVICES	1,269.00
HARRIS COMPUTER SYSTEMS	6,317.06
HARRIS, LESLIE	367.01
HDR	141,520.51
HEARTLAND	20,037.97
HEATERMEALS	1,193.21
HERO HOUSE	773.75
HOME DEPOT	762.59
HONEY BUCKET	125.00
HOPELINK	28,544.00
HOPKINS, CRAIG	171.87
ICMA RETIREMENT TRUST 457 - 304745	34,757.52
iCOMPASS TECHNOLOGIES, INC.	8,000.00
INDEPENDENT STATIONERS	3,998.45
INFRASOURCE CONTRACTING LLC	29.36
INSLEE, BEST, DOEZIE & RYDER, P.S.	144,411.33
INSTITUTE FOR FAMILY DEVELOPMENT	3,938.00

VB. Approval of Claim Nos. 24191-24275 in the Amount of \$1,333,811.90 for the Period Ending July 13, 2011.

INSTRUMENTATION NORTHWEST INC.	1,560.58
INTEGRA TELECOM	5,939.57
INTERNATIONAL CITY/CNTY MGMT ASSOC	2,154.43
INTERNATIONAL INST OF MUNI CLERKS	560.00
iWORQ SYSTEMS	4,800.00
J&K ASSOCIATES	10,789.04
J. MURPHEY CONSTRUCTION	42.67
JBS INSTRUMENTS	3,360.75
JET CITY PRINTING	4,284.16
JOHN E. REID & ASSOCIATES	580.00
JONES & STOKES	129.31
JURASSIC PARLIAMENT	710.95
KCDA PURCHASING COOP	9,328.55
KELLY PRINTING & GRAPHICS	3,611.32
KENMORE ELEMENTARY PTA	5,666.67
KENMORE HERITAGE SOCIETY	25.00
KENYON DISEND, PLLC	13,166.87
KEY EQUIPMENT FINANCE	2,697.00
KING COUNTY	200.00
KING COUNTY W.L.R.D.	176,058.21
KING COUNTY ANIMAL SVCS	3,555.00
KING COUNTY DEPT OF CONST PROP SVCS	1,503.57
KING COUNTY FINANCE	545,470.94
KING COUNTY FIRE DISTRICT	850.00
KING COUNTY LIBRARY SYS	33,440.00
KING COUNTY PARKS	814.34
KING COUNTY PUBLIC DEFENSE	5,901.56
KING COUNTY RADIO COMM SERVICES	9,222.99
KING COUNTY RECORDER'S OFFICE	343.00
KING COUNTY SHERIFF	734,947.21
KING COUNTY TREASURY	38,465.70
KONICA MINOLTA BUSINESS SOLUTIONS	5,503.36
KUKER-RANKEN INC	536.98
KUSTOM SIGNALS, INC.	263.09
LACHAPELLE, NATALIE	300.00
LIGHTHOUSE CONSULTING INC	17,547.64
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
MAIL FINANCE	2,018.62
MATRIX CONSULTING GROUP	20,366.00
MIDMOUNTAIN CONTRACTORS, INC	82,850.60
MILNE ELECTRIC, INC	24,187.00
MINZGHOR, NICHOLAS	1,411.92
MOBILE ELECTRICAL DISTRIBUTORS INC	12.13
MR. T'S TROPHIES	983.38
NAMI EASTSIDE	400.00
NATIONAL ALLIANCE ON MENTAL ILLNESS	1,081.50

VB. Approval of Claim Nos. 24191-24275 in the Amount of \$1,333,811.90 for the Period Ending July 13, 2011.

NATIONAL ASSOC OF PARLIAMENTARIANS	85.00
NATIONAL BARRICADE CO	1,582.27
NATIONAL LEAGUE OF CITIES	3,849.00
NATIONAL LIFE OF VERMONT	2,848.77
NATIONWIDE FINANCIAL 401a	151,119.45
NATIONWIDE RETIREMENT SOLUTIONS 457	16,370.00
NEBC	195.00
NetVersant	9,959.70
NEXTEL COMMUNICATIONS	5,626.91
NORTHSHORE FIRE DEPT	7,482.60
NORTHSHORE PAVING INC	537.90
NORTHSHORE SENIOR CENTER	11,750.00
NORTHSHORE UTILITY DIST	60,660.91
NORTHSHORE YOUTH & FAMILY SERVICES	17,500.00
OAC SERVICES, INC	44,469.71
OFFICE CLEANING CREW	2,102.85
OFFICE DEPOT	842.99
OFFICE TEAM	10,676.21
OLYMPIC ENVIRONMENTAL RESOURCES	19,804.19
OM WORKSPACE	5,303.59
OSTROM DRUGS	557.40
OTAK	127,779.66
OUSLEY, NANCY	1,108.08
PACE ENGINEERS, INC.	3,057.50
PACIFIC NW TITLE CO OF WA, INC	1,095.00
PACIFIC TOPSOILS	6,350.19
PASSPORT TRAVEL AND TOURS	2,977.70
PAWS	5,225.00
PENDLETON CONSULTING LLC	9,099.47
PEOPLES STORAGE	1,360.00
PERKINS COIE	6,228.00
PETTY CASH CUSTODIAN	1,155.07
PHOTOTAINMENT	876.00
PHSI PURE WATER FINANCE	905.67
PLATT	506.41
PRIME PACIFIC BANK	60.00
PRSA	277.00
PRUDENTIAL	746.26
PUGET SOUND BUSINESS JOURNAL	94.00
PUGET SOUND CLEAN AIR AGENCY	10,989.00
PUGET SOUND ENERGY	594,892.47
PUGET SOUND FINANCE OFFICERS ASSOC	50.00
PUGET SOUND REFRIGERATION	2,207.52
PURE WATER TECH OF PUGET SOUND	136.88
QUALITY BUSINESS SYSTEMS	11,875.52
RODGERS, MICHAEL	184.00
ROGERS, GLENN	2,512.74
RON KASPRISIN AIA	902.29
ROUNDY, CASSANDRA	50.00
S & S UPHOLSTERY	1,067.63
SAFRIN, PATTY	979.57

VB. Approval of Claim Nos. 24191-24275 in the Amount of \$1,333,811.90 for the Period Ending July 13, 2011.

SARAH ROBERTS	64,200.00
SCHINDLER ELEVATOR CORPORATION	1,243.37
SCHLOTZHAUER FIRM PS	13,080.00
SEATTLE TIMES	2,895.69
SECRETARY OF STATE	55.00
SEES TREES AND EXCAVATION INC	1,007.40
SEMIAMMOO RESORT	520.56
SERVICE ELECTRIC	869.08
SHARAM FAMILY	19,444.40
SHATTUCK, NANCY	5,600.00
SHORELINE PUBLIC SCHOOLS	450.00
SHRED-IT	396.00
SNOHOMISH COUNTY	26,558.25
SNOHOMISH COUNTY SHERIFF'S OFFICE	33,014.87
SOUND LAW CENTER	7,542.50
SOUND PUBLISHING, INC.	2,736.00
STAPLES ADVANTAGE	4,977.11
STAR NORTHWEST, INC	56,941.47
STEPHENS, MARY	5,000.00
STEWART BEALL MACNICHOLS	24,300.00
STOUDER, FRED	1,359.01
SUBURBAN CITIES ASSOC	11,829.87
SUNBELT	119.55
SUSKIN, LYNN	626.10
SUSSMAN/PREJZA & CO, INC	44,299.58
TELESYSTEMS WEST	585.83
THE KIPLINGER TAX LETTER	89.00
THE PIN CENTER	920.00
TIGER CONSTRUCTION & EXCAVATION	5,950.00
TIMEMARK INCORPORATED	106.76
TITAN OUTDOOR, LLC	862.00
TOTAL LANDSCAPE CORP	54,190.18
TOWN & COUNTRY FENCE, INC	427.05
TOWNE CENTRE HARDWARE	512.93
TRAFFIC COUNT CONSULTANTS, INC	4,450.00
TRAN, SHAUN & DINH LIEU	415.80
T-TRAN LANDSCAPING & CONCRETE	8,760.00
ULI/SEATTLE DISTRICT CNCL	45.00
UNITED STATES POSTMASTER	1,440.19
UNITED WAY OF KING COUNTY	897.00
UNIVERSAL FIELD SERVICES	7,873.85
UNIVERSITY OF WASHINGTON	1,210.00
URBAN LAND INSTITUTE	225.00
US POSTAL SERVICE (HASLER)	4,450.82
VAN NESS, ALLAN	1,833.21
VAUGHAN, KENT	76.00
W.S.S.R.O.A.	450.00
WA ASSOC FOR FLOODPLAIN MANAGEMENT	100.00
WA CITIES INSURANCE AUTHORITY	124,502.00
WA FINANCE OFFICERS ASSOCIATION	100.00
WA GUARANTEED EDUCATION TUITION	3,320.00

VB. Approval of Claim Nos. 24191-24275 in the Amount of \$1,333,811.90 for the Period Ending July 13, 2011.

WA RECREATION & PARK ASSOCIATION	129.00
WA STATE DEPARTMENT OF AGRICULTURE	33.00
WA STATE DEPT OF LABOR & INDUSTRIES	120.20
WA STATE DEPT OF TRANSPORTATION	5,013.25
WA STATE PARKS & RECREATION	2,700.00
WARDS NATURAL SCIENCE	1,237.95
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	13,469.52
WASHINGTON STATE DEPT OF REVENUE	5,003.62
WASHINGTON STATE OFFICE CASH MGMT	517.50
WEINSTEIN AU	22,005.11
WELLS FARGO FINANCIAL	3,558.90
WONDERLAND DEVELOPMENT	8,540.00
YAKIMA COUNTY DEPT OF CORRECTIONS	59,400.05
YAZDIDOOST, KAMRAN	4,305.60
ZONAR SYSTEMS	525.33
	<u>\$ 6,793,962.37</u>

VB. Approval of Claim Nos. 24191-24275 in the Amount of \$1,333,811.90 for the Period Ending July 13, 2011.

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Accept June 2011 Financial Reports for the City of Kenmore, Washington			July 25, 2011
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Finance	Joanne Gregory	Joanne Gregory	425-398-8900
COST OF PROPOSAL: N/A		ACCOUNT NUMBER: Various	
AMOUNT BUDGETED: 2011-2012 Adopted City Budget \$37,128,075		NAME AND FUND #: All Funds	
ATTACHMENT(S) TO AGENDA PACKET ITEM: 1. June 2011 Financial Reports for the City of Kenmore, Washington			
SUMMARY STATEMENT: The June monthly financial report is submitted for Council review and adoption. This provides the opportunity for the City Council and the community to receive information on the City of Kenmore's year to date revenues and expenditures in comparison to the City's 2011-2012 adopted biennial budget. It also provides an early opportunity to identify any potential variances or fluctuations from the adopted budget. June is the sixth month (25%) of the current biennium. Sales tax and real estate excise tax (REET) revenues remain low, especially when compared to already low results in 2009 and 2010. Development revenues overall and gas taxes are not showing any improvement; property tax collections were on target. On the national level, the unemployment rate crept up again to 9.2% in June from 9.1% in May, a disappointing development. The Dow Jones closed in June at 12,261, another decrease from 12,569 reported in May.			
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION: Kenmore Budget Policy 9a: A revenue/expenditure report will be produced monthly so that it can be directly compared to the actual results of the fiscal year to date. Kenmore Budget Policy 9b: All budget amendments, both revenues and expenditures, will be noted in the monthly report.			
RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Accept June 2011 Financial Report for the City of Kenmore, Washington			
REVIEWED BY FINANCE DIRECTOR: JMG 		REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER: 
TODAY'S DATE: July 14, 2011	REVISION DATE(S):		FILE NAME & PATH (HYPERLINK) June.xlsx

I:\Admin & Finance\Monthly Reports\2011\June AB Summary.docx

VC. Accept June 2011 Financial Reports for the City of Kenmore - Joanne Gregory, Finance Director



The City of Kenmore

PO Box 82607
KENMORE, WASHINGTON 98028

MEMORANDUM]

TO: Frederick C. Stouder, City Manager
FROM: Joanne Gregory, Finance Director
DATE: July 14, 2011
RE: June 2011 Financial Reports for the City of Kenmore, Washington

June 2011 financial information is presented for your review and delivery to the City Council. Attached you will find the following reports:

- General Fund Summary
- General Fund Revenue Graphs
- General Fund Expenditure Graphs
- All Funds Cash Summary
- Other Funds Monthly Activity
- Cash and Investment Report
- Schedule of Investments
- Sales Tax Receipts by Business Type
- Retail Sales and Use Tax Distribution
- Real Estate Excise Tax Report
- Monthly Report for Kenmore Village
- SR 522 Phase I Revenue and Expenditure History
- SR 522 Phase II Revenue and Expenditure History

If you would like additional information or have any questions regarding the financial reports, please feel free to contact me.

GENERAL FUND

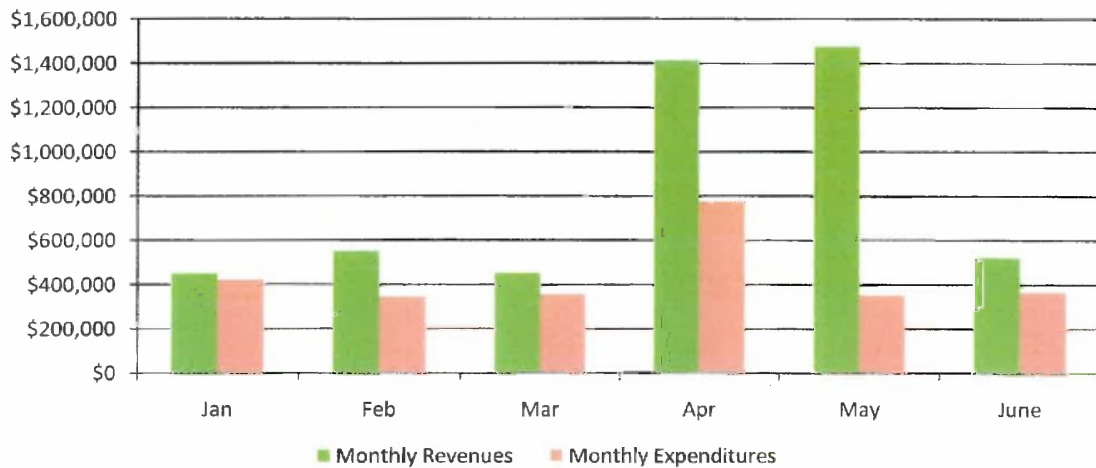
The first section of the monthly financial report is a review of the General Fund. This fund accounts for operational activities and includes all financial resources except those required or elected to be accounted for in another fund. Revenues include various taxes, per capita distributions from the State, fines and forfeitures, permits and licenses, and fees for service.

In the context of the biennial budget, June is the sixth month (25%) of the 2011-2012 biennial budget period.

For the month of June, revenues exceeded expenditures in the General Fund by **\$156,104**.

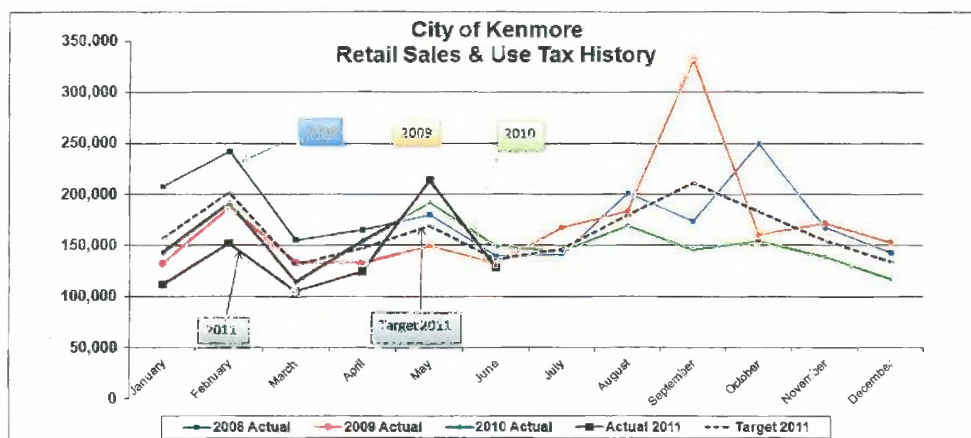
The following chart illustrates the monthly revenue and expenditure activity in the General Fund through June, 2011.

City of Kenmore, Washington
Monthly Financial Report
June 2011



Total **revenues** for the month were **\$521,712**. Year to date the revenues are \$4,868,926 which is 25.9% of the biennial budgeted revenues of \$18,833,596. Primary sources of revenue for the month included retail sales and use taxes in the amount of \$128,368, utility taxes in the amount of \$112,626, and development related fees in the amount of \$122,547. Note that year to date franchise fees are unusually high due to two of the 2010 quarterly payments (total of \$121,674) not being remitted to the City until early 2011.

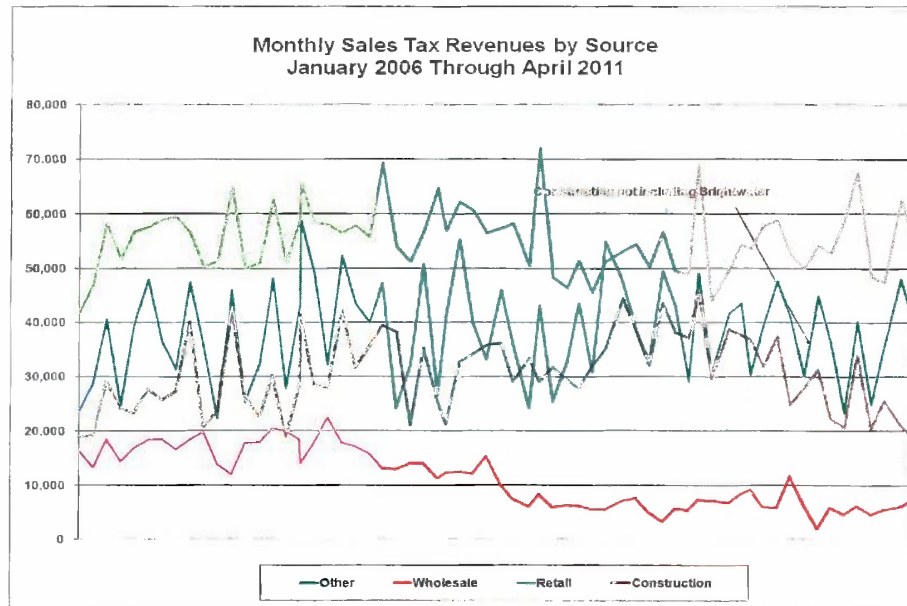
A summary of sales tax revenues received in June is attached. These receipts are based on April sales activity and have been tracking lower each month than the previous three years. The chart below gives a historical perspective of monthly sales tax receipts over the last several years. The black dotted Target 2011 line is a monthly average of actual receipts by month during 2008, 2009, and 2010. The solid black line represents 2011 actual receipts.



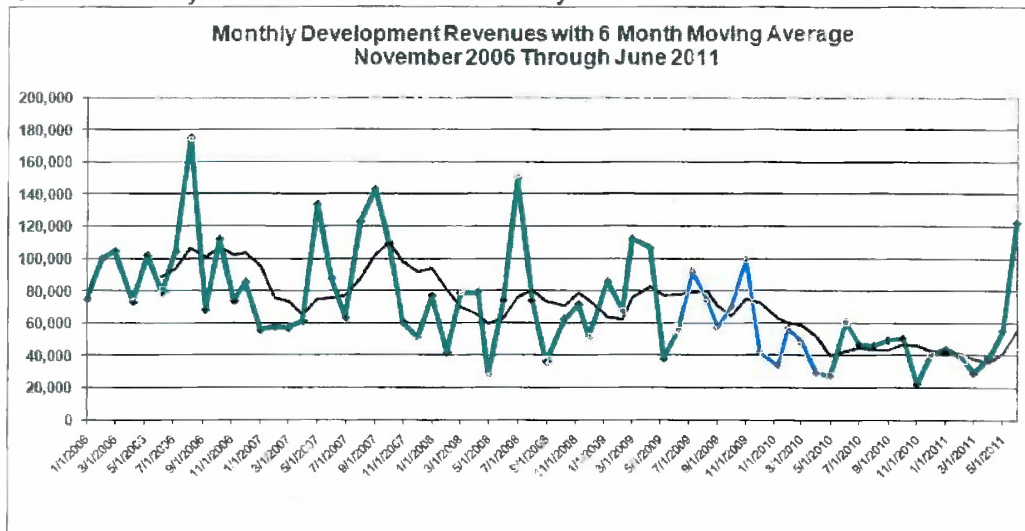
The following chart illustrates the historical trends of sales tax receipts from the major segments: construction, retail, wholesale, other (agriculture, services, manufacturing,

City of Kenmore, Washington
Monthly Financial Report
June 2011

transportation and utilities) from January 2006 through April 2011. Construction sales taxes are shown without the benefit of the Brightwater construction project and are declining. This category previously had the benefit of the city hall, Bastyr dorms, fire station and library construction projects which have been completed. Other segments have not yet experienced significant, prolonged downturns; however wholesale and manufacturing receipts have definitely fallen off.



Development revenues are also declining noticeably. The following chart illustrates the revenue activity over the last four and a half years.



June 2011 expenditures were **\$365,608**. Year to date expenditures are \$2,616,409 which is 13.6% of the biennial budget expenditures of \$19,256,668. During this month, no unusual transactions were noted and, as happens every year, the monthly cost of the police services contract had not yet been billed for 2011 and those expenditures have not yet been reflected. The first invoice for the year arrived in June and will be paid in July.

The General Fund 2011-2012 budgeted beginning fund balance is \$4,941,884. This is a substantial reserve and represents 53% of the budgeted 2011 expenditures. The City's Financial Policy 3) Contingent Accounts prescribes that the minimum General Fund balance reserve should be \$1,876,990 for 2011. The City Council will provide policy direction regarding the additional reserve of \$3,064,894.

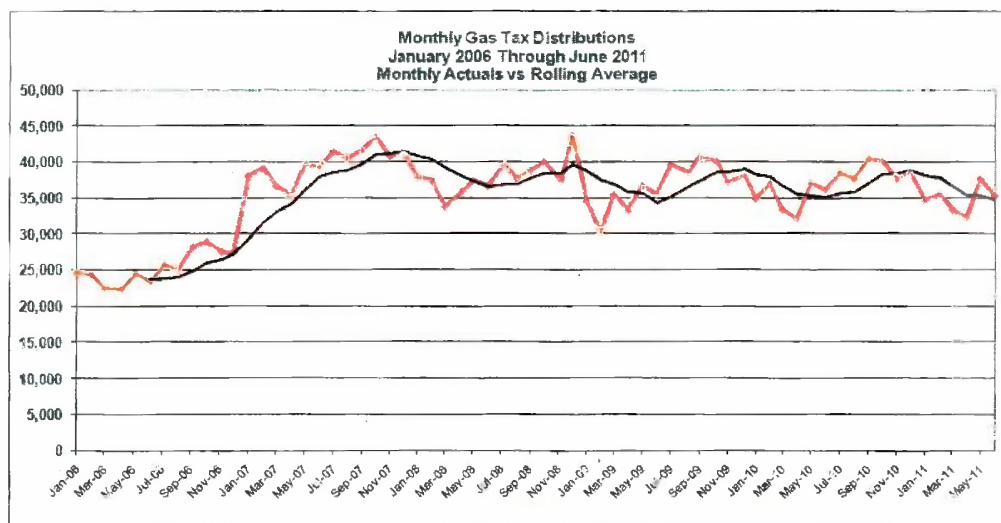
OTHER FUNDS

The June cash activity for all funds is presented on the attached All Funds Cash Summary. Total City cash and investments, at the end of June, totaled \$18,921,380. Previously held retainage of \$443,599 on the city hall construction project was released in June. The Other Funds Monthly Activity graphs compare biennium to date revenues and expenditures to the 2011-2012 biennial budget.

Other than the following, there were no significant transactions or unusual activities noted during the month of June. Total other fund (non General Fund) revenues were \$172,974 and total other fund (non-General Fund) expenditures were \$306,794.

In the **Street Fund** revenue from gas tax distributions was \$35,264.

The following chart shows recent gas tax receipts through June, 2011. The price of gas seems to have stabilized although revenues are not expected to rise due to economizing by the public and increased use of fuel efficient vehicles.

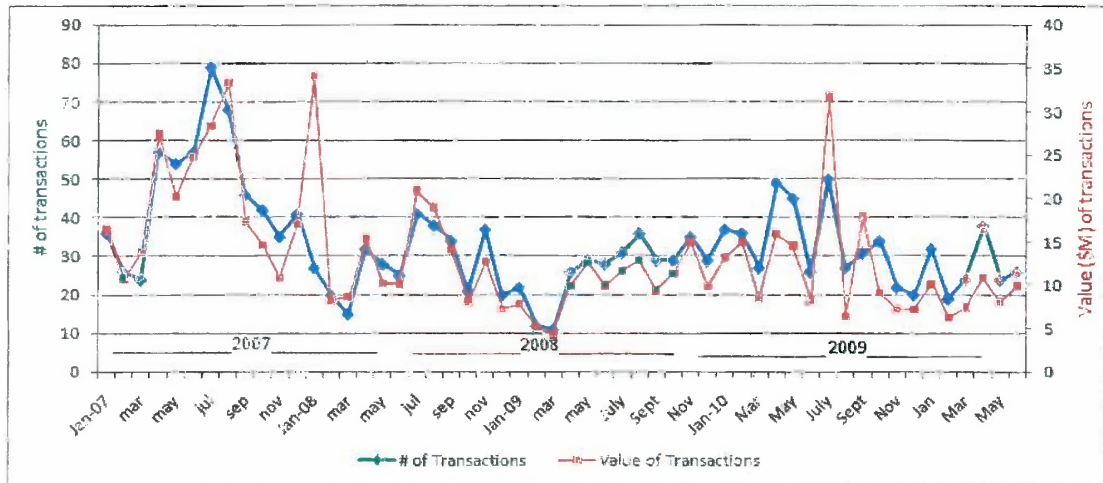


In the **Arterial Street Fund**, \$31,374 was expended on SR 522 Phase I and Phase II; \$45,105 was spent on various other transportation projects.

Park impact fees of \$7,298 were received and **transportation impact fees** of \$24,258 were received in June. There have been no expenditures in these funds thus far this year.

The **Municipal Capital Fund** received \$48,938 of real estate excise taxes (REET) in June from sales activity that occurred in May. 26 transactions were reported this month.

The attached Real Estate Excise Tax Report shows the monthly activity since 2007. Below is a chart that shows both the number of real estate transactions and the value of those transactions for the years 2007, 2008, 2009, 2010, 2011. It is evident that there are a stable number of monthly transactions but not at the peak level experienced in 2007.



SUMMARY

This concludes the financial report for the City of Kenmore as of **June 30, 2011**. Thank you for taking the time to review the materials. I appreciate your feedback and encourage you to contact the City Manager if you have any questions prior to the City Council meeting.

City of Kenmore, Washington
General Fund Summary Report
June 30, 2011



	CURRENT PERIOD 2011-2012				PRIOR PERIOD 2009-2010		
	MONTH	YEAR TO DATE	% of	BIENNIUM BUDGET	CURRENT	YEAR TO DATE	BIENNIUM BUDGET
	June	2011	BUDGET	2011-2012	June-2010	2010	2009-2010
REVENUES							
Beginning Fund Balance				4,941,884			3,683,966
Property Taxes	28,128	2,176,581	26.4%	8,254,387	24,404	2,089,323	7,870,521
Sales and Use Taxes	161,391	1,039,289	24.0%	4,339,202	179,358	957,878	4,486,179
Utility Taxes	112,626	803,249	26.8%	3,002,082	116,836	674,319	3,001,932
Other Taxes	965	15,204	14.6%	104,104	0	15,819	145,900
Development Fees & Permits	122,547	328,915	22.9%	1,439,095	60,901	195,911	1,803,313
Franchise Fees	0	263,275	48.9%	538,588	6,151	177,025	466,900
Intergovernmental and Grants	68,958	191,908	25.2%	761,476	71,227	174,580	760,841
Investment Interest	20,996	38,590	68.9%	56,000	11,381	-26,539	180,000
Fines and Forfeitures	49	598	0.0%	0	19,713	19,541	0
Transfers and Other Revenues	6,052	11,317	3.3%	338,662	126,640	11,478	235,220
Total Revenues	521,712	4,868,926	25.9%	18,833,596	616,611	4,289,336	18,950,806
Total Revenues & Beginning Fund Balance				23,775,480			22,634,772

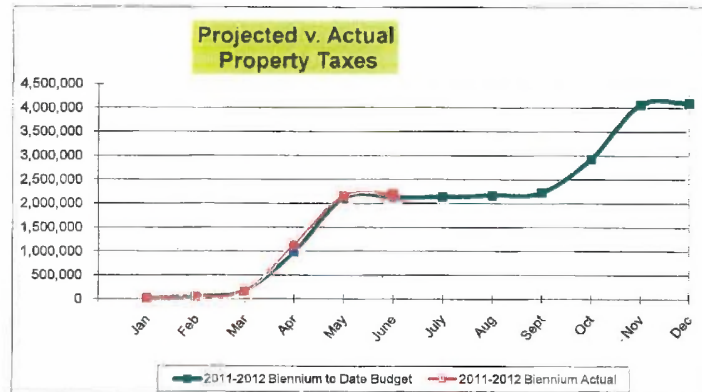
	CURRENT PERIOD 2011-2012				PRIOR PERIOD 2009-2010		
	MONTH	YEAR TO DATE	% of	BIENNIUM BUDGET	CURRENT	YEAR TO DATE	BIENNIUM BUDGET
	June	2011	BUDGET	2011-2012	June-2010	2010	2009-2010
EXPENDITURES							
Cost Center							
City Council	5,430	52,709	24.2%	217,644	14,796	62,454	184,307
City Manager	75,936	389,432	23.1%	1,684,600	63,189	319,703	1,576,240
City Clerk	19,371	115,625	21.6%	536,261	17,488	97,657	503,323
Finance	19,520	123,848	19.4%	639,213	20,234	105,679	484,516
Legal	2,803	125,740	30.5%	412,000	3,305	135,672	415,000
Non-Departmental	30,777	392,134	25.6%	1,532,818	56,973	459,983	1,774,827
Interfund Transfers	0	0	0.0%	1,623,013	0	0	3,296,095
Public Safety	49,307	302,653	3.9%	7,664,363	77,939	1,322,277	6,969,090
Engineering	49,269	219,589	20.4%	1,074,935	58,541	143,595	1,197,788
Planning & Community Dev	26,288	155,152	20.8%	747,632	145,444	533,053	3,358,755
Land Dev & Permitting	56,050	260,010	16.5%	1,571,147		0	0
Parks & Facility Maintenance	30,857	479,517	30.9%	1,553,042	42,916	235,316	1,001,942
Total Expenditures	365,608	2,616,409	13.6%	19,256,668	500,825	3,415,388	20,761,883
Ending Fund Balance				4,518,812			1,872,888
Total Expenditures and Ending Fund Balance				23,775,480			22,634,771

**City of Kenmore, Washington
General Fund Revenue Graphs
June 30, 2011**

PROPERTY TAXES

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	10,862	10,090
Feb	53,674	48,396
Mar	176,078	158,944
Apr	977,365	1,129,979
May	2,104,307	2,148,453
June	2,128,886	2,176,581
July	2,141,268	
Aug	2,178,622	
Sept	2,234,210	
Oct	2,939,254	
Nov	4,071,083	
Dec	4,106,660	
2011	4,106,660	

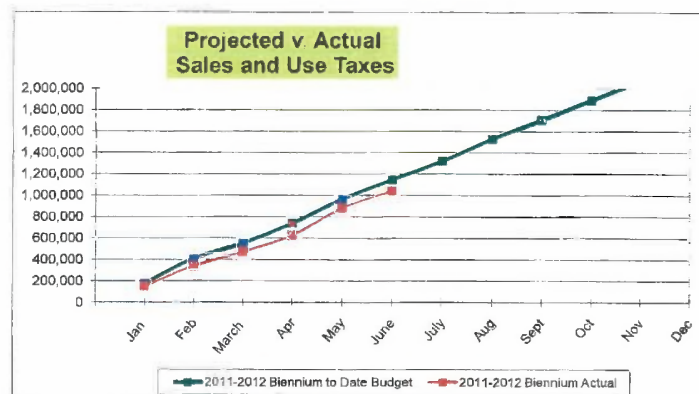
Year To Date
Actual v. Projected 102.24%



SALES, USE, CRIM JUSTICE TAXES

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	174,792	143,734
Feb	408,586	337,267
March	552,562	470,750
Apr	738,057	624,068
May	964,931	877,896
June	1,145,610	1,039,289
July	1,320,155	
Aug	1,526,322	
Sept	1,706,765	
Oct	1,894,218	
Nov	2,069,709	
Dec	2,219,601	
2011	2,219,601	

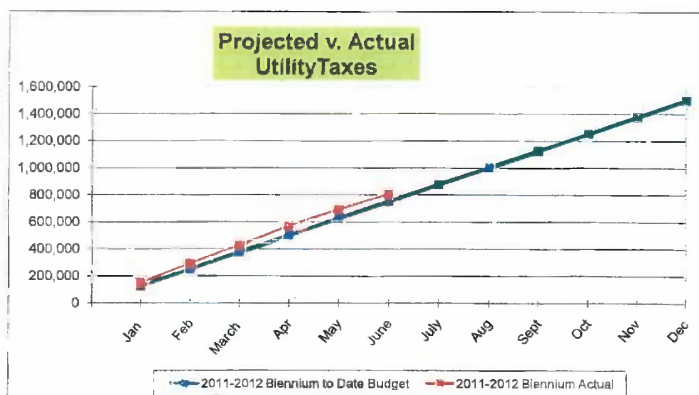
Year To Date
Actual v. Projected 91%



UTILITY TAXES

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	125,087	145,824
Feb	250,173	289,238
March	375,260	425,114
Apr	500,347	567,667
May	625,433	690,623
June	750,520	803,249
July	875,607	
Aug	1,000,693	
Sept	1,125,780	
Oct	1,250,867	
Nov	1,375,953	
Dec	1,501,040	
2011	1,501,040	

Year To Date
Actual v. Projected 107%

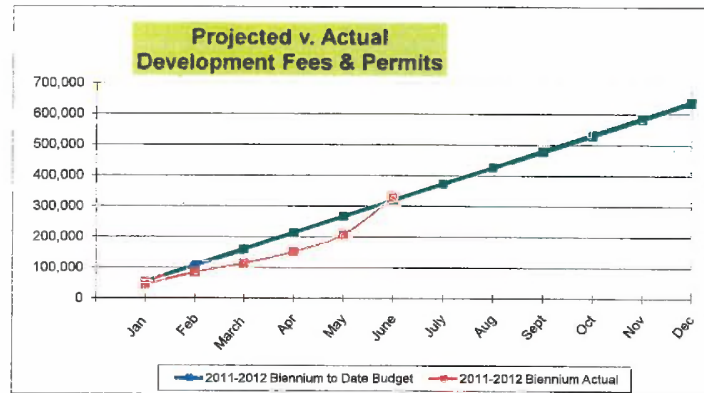


**City of Kenmore, Washington
General Fund Revenue Graphs
June 30, 2011**

DEVELOPMENT FEES & PERMITS

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	53,274	43,730
Feb	106,549	83,138
March	159,823	112,539
Apr	213,097	151,023
May	266,372	208,368
June	319,646	328,915
July	372,920	
Aug	426,185	
Sept	479,469	
Oct	532,743	
Nov	586,018	
Dec	639,292	
2011	639,292	

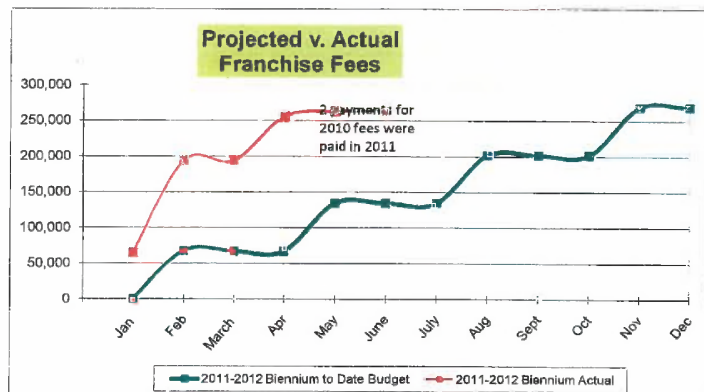
Year To Date
Actual v. Projected 103%



FRANCHISE FEES

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	0	64,328
Feb	67,324	193,553
March	67,324	193,553
Apr	67,324	255,526
May	134,647	263,275
June	134,647	263,275
July	134,647	
Aug	201,971	
Sept	201,971	
Oct	201,971	
Nov	269,294	
Dec	269,294	
2011	269,294	

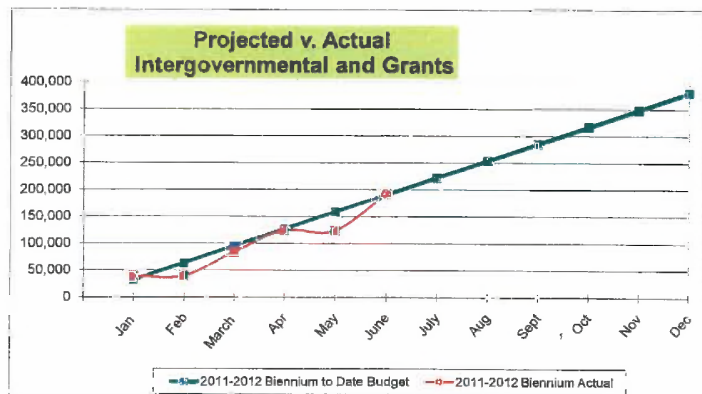
Year To Date
Actual v. Projected 196%



INTERGOVERNMENTAL & GRANTS

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	31,728	39,034
Feb	63,456	39,034
March	95,185	83,130
Apr	126,913	122,950
May	158,641	122,950
June	190,369	191,908
July	222,097	
Aug	253,825	
Sept	285,554	
Oct	317,282	
Nov	349,010	
Dec	380,738	
2011	380,738	

Year To Date
Actual v. Projected 101%

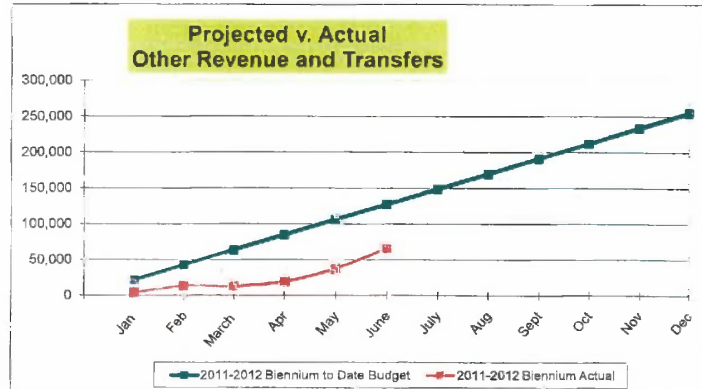


**City of Kenmore, Washington
General Fund Revenue Graphs
June 30, 2011**

OTHER REVENUES AND TRANSFERS

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	21,279	3,527
Feb	42,558	12,958
March	63,836	12,742
Apr	85,115	19,440
May	106,394	37,647
June	127,673	65,709
July	148,951	
Aug	170,230	
Sept	191,509	
Oct	212,786	
Nov	234,066	
Dec	255,345	
2011	255,345	

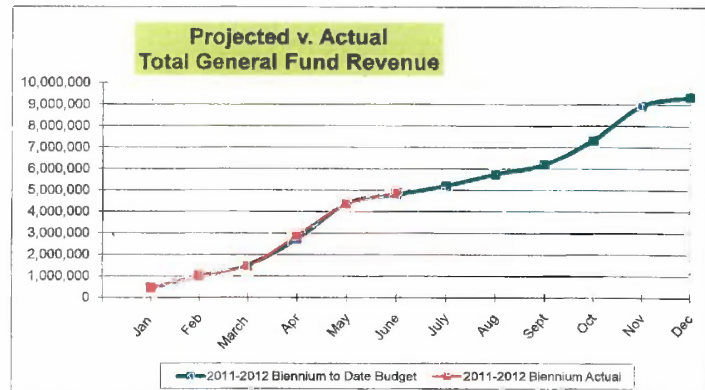
Year To Date
Actual v. Projected 51%



TOTAL GENERAL FUND REVENUE

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	417,023	450,267
Feb	992,321	1,003,584
March	1,492,068	1,456,772
Apr	2,708,218	2,870,653
May	4,360,726	4,347,214
June	4,797,351	4,868,926
July	5,215,646	
Aug	5,757,859	
Sept	6,225,257	
Oct	7,349,123	
Nov	8,955,134	
Dec	9,371,971	
2011	9,371,971	

Year To Date
Actual v. Projected 101.49%



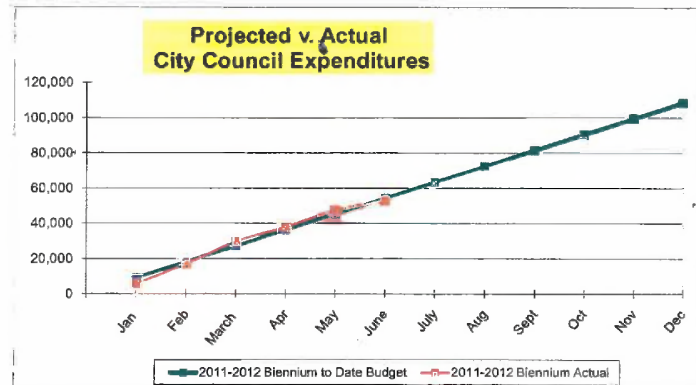
**City of Kenmore, Washington
General Fund Expenditure Graphs
June 30, 2011**

CITY COUNCIL

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	9,066	5,667
Feb	18,133	16,802
March	27,199	29,707
Apr	36,266	37,836
May	45,332	47,279
June	54,399	52,709
July	63,465	
Aug	72,531	
Sept	81,598	
Oct	90,664	
Nov	99,731	
Dec	108,797	
2011	108,797	

Year To Date
Actual v. Projected

97%

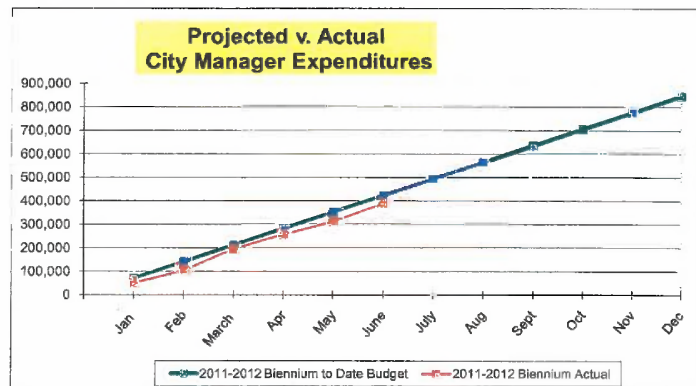


CITY MANAGER

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	70,645	50,407
Feb	141,289	105,614
March	211,934	193,272
Apr	282,578	255,744
May	353,223	313,496
June	423,867	389,432
July	494,512	
Aug	565,156	
Sept	635,801	
Oct	706,445	
Nov	777,090	
Dec	847,734	
2011	847,734	

Year To Date
Actual v. Projected

92%

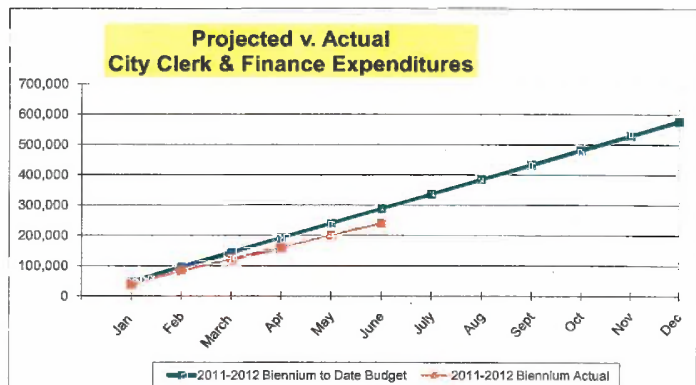


CITY CLERK & FINANCE

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	48,098	38,133
Feb	96,197	82,263
March	144,295	121,368
Apr	192,394	160,428
May	240,492	200,582
June	288,591	239,473
July	336,689	
Aug	384,787	
Sept	432,886	
Oct	480,984	
Nov	529,083	
Dec	577,181	
2011	577,181	

Year To Date
Actual v. Projected

83%

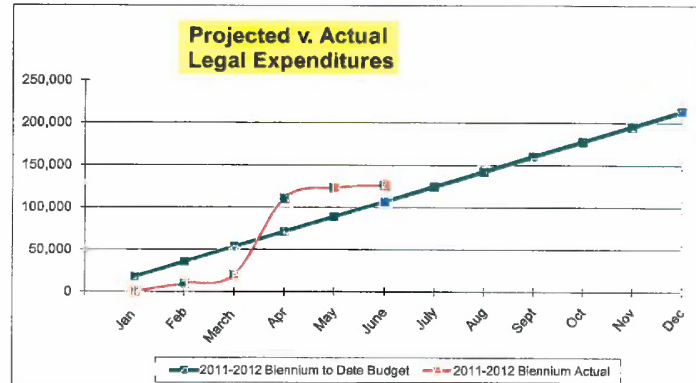


City of Kenmore, Washington
General Fund Expenditure Graphs
June 30, 2011

LEGAL

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	17,792	0
Feb	35,583	9,472
March	53,375	19,947
Apr	71,167	110,349
May	88,958	122,937
June	106,750	125,740
July	124,542	
Aug	142,333	
Sept	160,125	
Oct	177,917	
Nov	195,708	
Dec	213,500	
2011	213,500	

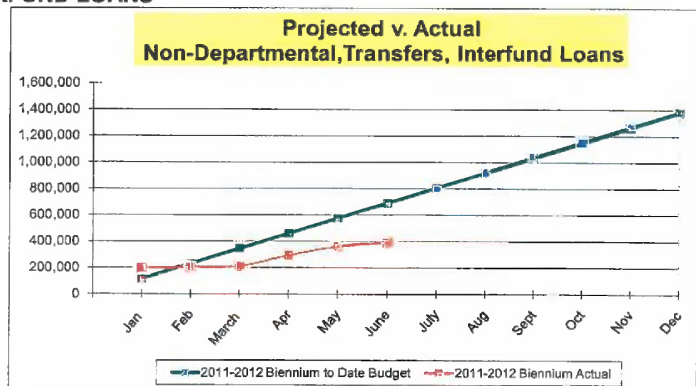
Year To Date
 Actual v. Projected 118%



NON-DEPARTMENTAL, TRANSFERS, INTERFUND LOANS

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	115,185	194,427
Feb	230,369	203,114
March	345,554	211,943
Apr	460,738	293,277
May	575,923	361,357
June	691,107	392,134
July	806,292	
Aug	921,476	
Sept	1,036,661	
Oct	1,151,845	
Nov	1,267,030	
Dec	1,382,214	
2011	1,382,214	

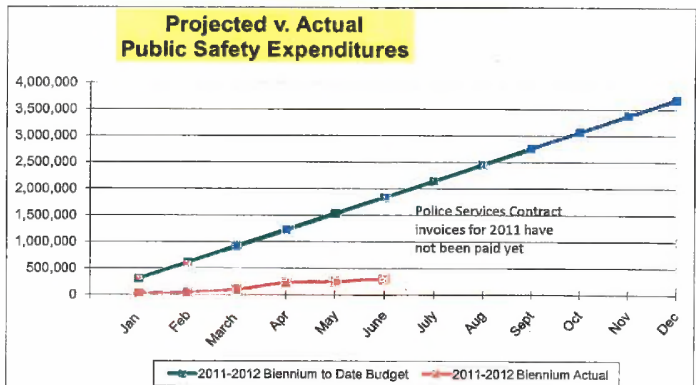
Year To Date
 Actual v. Projected 57%



PUBLIC SAFETY

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	306,742	30,467
Feb	613,484	45,647
March	920,227	101,426
Apr	1,226,969	225,914
May	1,533,711	253,346
June	1,840,453	302,653
July	2,147,195	
Aug	2,453,937	
Sept	2,760,680	
Oct	3,067,422	
Nov	3,374,164	
Dec	3,680,906	
2011	3,680,906	

Year To Date
 Actual v. Projected 16%



**City of Kenmore, Washington
General Fund Expenditure Graphs
June 30, 2011**

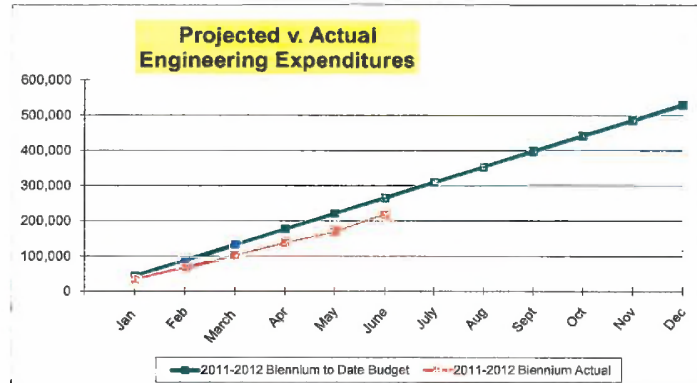
ENGINEERING

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
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Jan	44,213	33,890
Feb	88,426	67,607
March	132,639	101,292
Apr	176,852	137,709
May	221,065	170,320
June	265,278	219,589
July	309,490	
Aug	353,703	
Sept	397,916	
Oct	442,129	
Nov	486,342	
Dec	530,555	
2011	530,555	

Year To Date
Actual v. Projected

83%



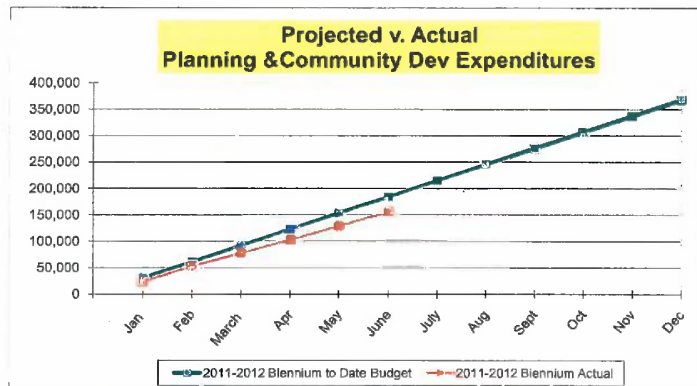
PLANNING & COMMUNITY DEV

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
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Jan	30,740	23,392
Feb	61,480	52,442
March	92,220	77,462
Apr	122,959	102,864
May	153,699	128,864
June	184,439	155,152
July	215,179	
Aug	245,919	
Sept	276,659	
Oct	307,398	
Nov	338,138	
Dec	368,878	
2011	368,878	

Year To Date
Actual v. Projected

84%



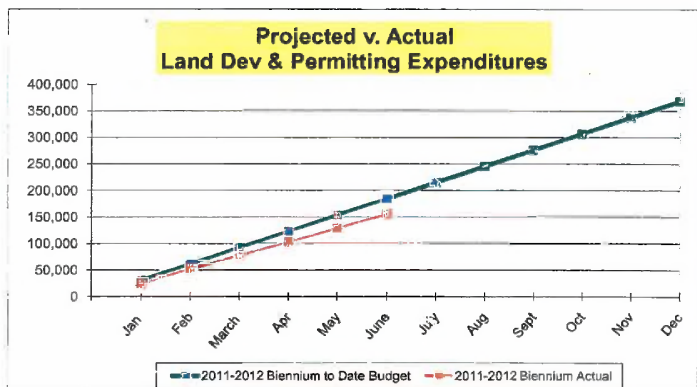
LAND DEV & PERMITTING

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
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Jan	64,315	39,962
Feb	128,630	81,679
March	192,946	122,785
Apr	257,261	163,379
May	321,576	203,960
June	385,891	260,010
July	450,206	
Aug	514,521	
Sept	578,837	
Oct	643,152	
Nov	707,467	
Dec	771,782	
2011	771,782	

Year To Date
Actual v. Projected

67%

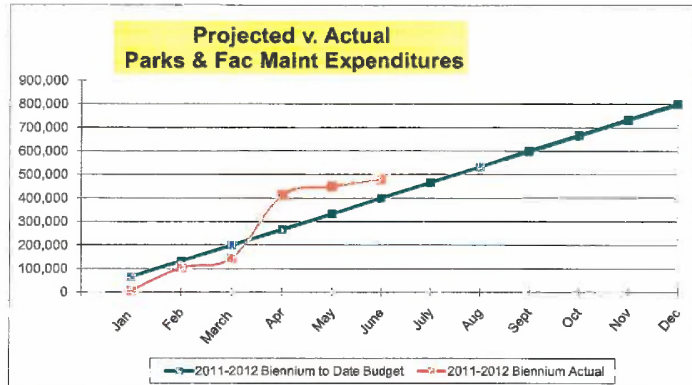


**City of Kenmore, Washington
General Fund Expenditure Graphs
June 30, 2011**

PARKS & FACILITY MAINT

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	66,665	6,230
Feb	133,329	103,546
March	199,994	144,923
Apr	266,659	411,504
May	333,323	448,660
June	399,988	479,517
July	466,653	
Aug	533,317	
Sept	599,982	
Oct	666,647	
Nov	733,311	
Dec	799,976	
2011	799,976	

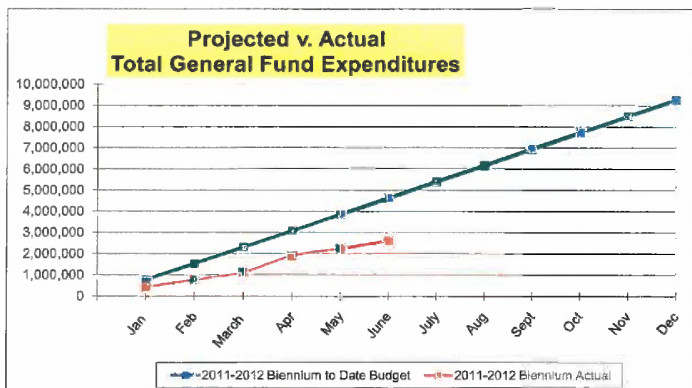
Year To Date
Actual v. Projected 120%



TOTAL GENERAL FUND EXPENDITURES

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	773,460	422,575
Feb	1,546,921	768,186
March	2,320,381	1,124,125
Apr	3,093,841	1,899,004
May	3,867,301	2,250,801
June	4,640,762	2,616,409
July	5,414,222	
Aug	6,187,682	
Sept	6,961,142	
Oct	7,734,603	
Nov	8,508,063	
Dec	9,281,523	
2011	9,281,523	

Year To Date
Actual v. Projected 56%



City of Kenmore, Washington
All Funds Cash Summary
June 30, 2011



	2009-2010		2011-2012
	BIENNIUM	BUDGET	BIENNIUM TO DATE
GENERAL FUND			
Beginning Cash	2,748,258	4,941,884	4,941,884
Interfund Loan Repayment	6,850,000	0	0
Revenues	18,944,234	18,833,595	4,868,926
Total Sources	28,542,492	23,775,479	9,810,810
Interfund Loans	5,350,000	0	0
Expenditures	18,262,703	19,256,668	2,616,409
Ending Cash	4,929,789	4,518,811	7,194,401
Total Uses	28,542,492	23,775,479	9,810,810
STREET FUND			
Beginning Cash	228,568	2,040,582	2,040,582
Interfund Loan	3,550,000	0	0
Revenues	8,568,320	2,347,724	203,911
Total Sources	12,346,888	4,388,306	2,244,493
Interfund Loan Repaid	6,150,000	0	0
Expenditures	4,156,306	3,113,790	348,629
Ending Cash	2,040,582	1,274,516	1,895,864
Total Uses	12,346,888	4,388,306	2,244,493
ARTERIAL STREET FUND			
Beginning Cash	1,432,272	1,209,197	1,209,197
Interfund Loan	8,300,000	0	0
Revenues	23,393,136	5,556,577	0
Total Sources	33,125,408	6,765,774	1,209,197
Interfund Loan Repaid	10,500,000	0	0
Expenditures	21,416,211	5,282,641	805,365
Ending Cash	1,209,197	1,483,133	403,832
Total Uses	33,125,408	6,765,774	1,209,197
PUBLIC ART FUND			
Beginning Cash	67,378	68,244	68,244
Revenues	130,857	3,979	0
Total Sources	198,235	72,223	68,244
Expenditures	129,991	1,000	0
Ending Cash	68,244	71,223	68,244
Total Uses	198,235	72,223	68,244
PARK IMPACT FEE FUND			
Beginning Cash	976,339	1,354,455	1,354,455
Revenues	396,799	440,942	33,841
Total Sources	1,373,138	1,795,397	1,388,296
Expenditures	18,683	700,000	0
Ending Cash	1,354,455	1,095,397	1,388,296
Total Uses	1,373,138	1,795,397	1,388,296
TRANSPORTATION IMPACT FEE FUND			
Beginning Cash	146,087	545,655	545,655
Revenues	1,280,266	943,962	112,502
Total Sources	1,426,353	1,489,617	658,157
Expenditures	880,698	1,367,532	0
Ending Cash	545,655	122,085	658,157
Total Uses	1,426,353	1,489,617	658,157
SWAMP CREEK BASIN FUND			
Beginning Cash	0	1,762,640	1,762,640
Revenues	1,762,640	35,619	0
Total Sources	1,762,640	1,798,259	1,762,640
Expenditures	0	0	0
Ending Cash	1,762,640	1,798,259	1,762,640
Total Uses	1,762,640	1,798,259	1,762,640

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**City of Kenmore, Washington
All Funds Cash Summary
June 30, 2011**

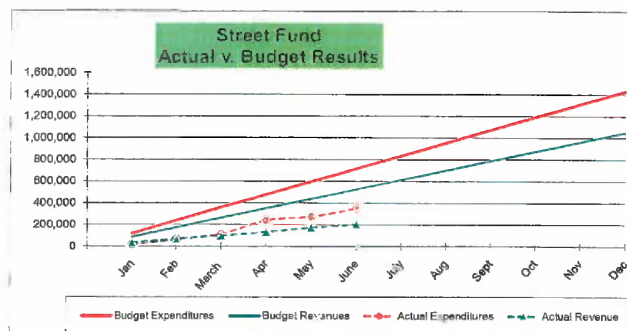


	2009-2010 BIENNIUM	BUDGET	JUNE	2011-2012 BIENNIUM TO DATE
MUNICIPAL CAPITAL RESERVE FUND				
Beginning Cash	2,402,043	1,866,318		1,866,318
Interfund Loan Repayment	5,800,000	0		0
Revenues	1,493,254	2,038,341	53,434	271,718
Total Sources	12,695,297	3,904,659	53,434	2,138,036
Interfund Loan	5,500,000	0		0
Expenditures	5,328,980	3,346,018	(3,166)	(3,166)
Ending Cash	1,866,318	558,641		2,141,202
Total Uses	12,695,297	3,904,659	(3,166)	2,138,036
CAPITAL PROJECTS FUND				
Beginning Cash	12,016,588	60,725		60,725
Revenues	4,693,262	191,078	4,664	53,808
Total Sources	16,709,850	251,803	4,664	114,533
Expenditures	16,636,626	190,820	26,646	379,257
Ending Cash	73,223	60,983		(264,724)
Total Uses	16,709,850	251,803	26,646	114,533
SURFACE WATER MANAGEMENT FUND				
Beginning Cash	3,865,039	1,590,280		1,590,280
Revenues	2,824,196	3,128,748	7,256	834,249
Total Sources	6,689,235	4,719,028	7,256	2,424,529
Expenditures	5,098,954	3,726,109	102,100	855,025
Ending Cash	1,590,280	992,919		1,569,504
Total Uses	6,689,235	4,719,028	102,100	2,424,529
STRATEGIC RESERVE FUND				
Beginning Cash	1,057,632	1,264,464		1,264,464
Interfund Loan Repayment	1,000,000	0		0
Revenues	206,832	0	0	0
Total Sources	2,264,464	1,264,464	0	1,264,464
Interfund Loans	1,000,000			0
Expenditures	0	0	0	0
Ending Cash	1,264,464	1,264,464		1,264,464
Total Uses	2,264,464	1,264,464	0	1,264,464
EQUIPMENT REPLACEMENT FUND				
Beginning Cash	510,358	524,310		524,310
Revenues	111,198	161,520	37,901	37,901
Total Sources	621,556	685,830	37,901	562,211
Expenditures	97,246	143,497	4,878	4,878
Ending Cash	524,310	542,333		557,333
Total Uses	621,556	685,830	4,878	562,211
TRUST AND AGENCY (NON BUDGETED FUND)*				
Beginning Cash	269,109	278,859		278,859
Revenues	144,107	0	8,234	32,680
Total Sources	413,216	278,859	8,234	311,539
Expenditures	134,357	0	24,850	29,372
Ending Cash	278,859	278,859		282,167
Total Uses	413,216	278,859	24,850	311,539
TOTALS				
Beginning Cash	25,719,671	17,507,613		17,507,613
Interfund Loan	28,500,000	0	0	0
Revenues	63,949,101	33,682,085	694,686	6,449,536
Total Sources	118,168,772	51,189,698	694,686	23,957,149
Interfund Loan	28,500,000	0	0	0
Expenditures	72,160,756	37,128,075	672,402	5,035,769
Ending Cash	17,508,016	14,061,623		18,921,380
Total Uses	118,168,772	51,189,698	672,402	23,957,149

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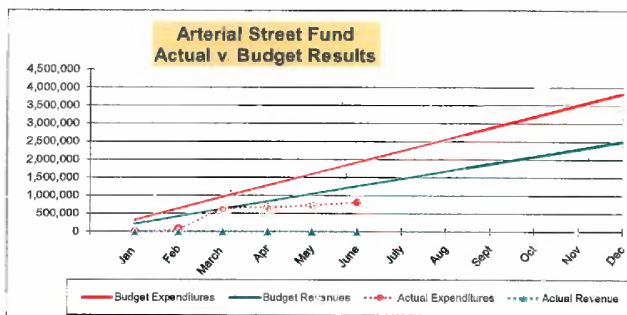
**City of Kenmore, Washington
Other Funds Monthly Activity
June 30, 2011**

STREET FUND				
	2011-2012 Budget Expenditures	2011-2012 Actual Expenditures	2011-2012 Budget Revenue	2011-2012 Actual Revenue
Jan	119,005	18,288	87,562	34,676
Feb	238,011	68,162	175,125	70,210
March	357,016	113,125	262,887	98,562
Apr	476,021	239,310	350,250	133,365
May	595,027	273,622	437,812	173,982
June	714,032	348,629	525,376	203,911
July	833,037		612,937	
Aug	952,043		700,499	
Sept	1,071,048		788,062	
Oct	1,190,053		875,624	
Nov	1,309,059		963,187	
Dec	1,428,064		1,050,749	
2011-2012	3,113,790		2,347,724	
Total Actual to Date vs Total Budget		11%		9%



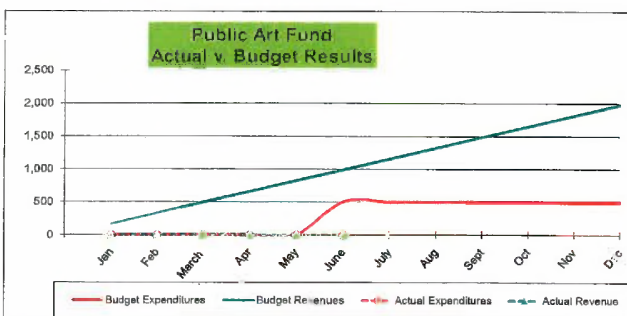
The Street Fund accounts for street maintenance operations, funded by the State's fuel tax and transfers from the General Fund.

ARTERIAL STREET FUND				
	2011-2012 Budget Expenditures	2011-2012 Actual Expenditures	2011-2012 Budget Revenue	2011-2012 Actual Revenue
Jan	319,542	0	209,710	0
Feb	639,083	87,039	419,419	0
March	958,625	615,104	629,129	0
Apr	1,278,166	662,062	838,838	0
May	1,597,708	728,886	1,048,548	0
June	1,917,250	805,366	1,258,257	0
July	2,236,791		1,467,967	
Aug	2,556,333		1,677,676	
Sept	2,875,874		1,887,386	
Oct	3,195,416		2,097,095	
Nov	3,514,957		2,306,805	
Dec	3,834,499		2,516,514	
2011-2012	5,282,641		5,556,577	
Total Actual to Date vs Total Budget		15%		0%



The Arterial Street Fund accounts for capital improvements to the City's streets and SR 522, funded by various grants plus City resources from real estate excise tax and transportation impact fees. All phases of improvements to SR 522 are now accounted for in this fund. There is a time lag between project expenditures and reimbursements from grants; this accounts for the lower revenues compared to the expenditures.

PUBLIC ART FUND				
	2011-2012 Budget Expenditures	2011-2012 Actual Expenditures	2011-2012 Budget Revenue	2011-2012 Actual Revenue
Jan	0	0	165	0
Feb	0	0	330	0
March	0	0	496	0
Apr	0	0	661	0
May	0	0	826	0
June	500	0	991	0
July	500		1,156	
Aug	500		1,321	
Sept	500		1,487	
Oct	500		1,652	
Nov	500		1,817	
Dec	500		1,982	
2011-2012	1,000		3,979	
Total Actual to Date vs Total Budget		0%		0%

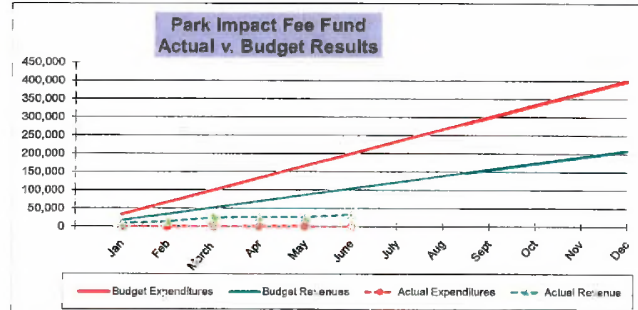


This fund accounts for public art authorized by Ordinance 01-0115. One percent (1%) of public project construction contracts is contributed to this fund to provide for public art displays or performing arts events as authorized by the City Council.

**City of Kenmore, Washington
Other Funds Monthly Activity
June 30, 2011**

PARK IMPACT FEE FUND

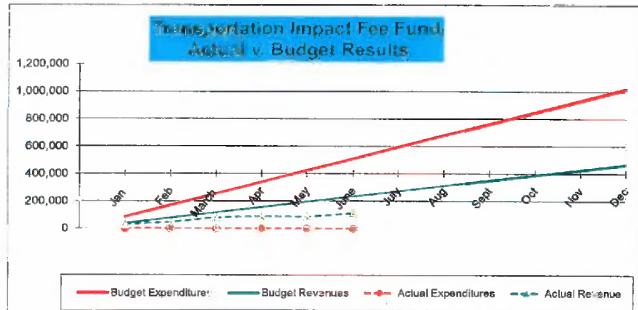
	2011-2012 Budget Expenditures	2011-2012 Actual Expenditures	2011-2012 Budget Revenue	2011-2012 Actual Revenue
Jan	33,333	0	17,432	9,852
Feb	66,667	0	34,864	14,478
March	100,000	0	52,296	24,130
Apr	133,333	0	69,728	26,543
May	166,667	0	87,160	26,543
June	200,000	0	104,592	33,841
July	233,333		122,023	
Aug	266,667		139,455	
Sept	300,000		156,887	
Oct	333,333		174,319	
Nov	366,667		191,751	
Dec	400,000		209,183	
2011-2012	700,000		440,942	
Total Actual to Date vs Total Budget		0%		8%



This fund accounts for City imposed park impact fees on new development. Expenditures are for public park acquisitions and improvements. In the 2011-2012 budget, expenditures represent transfers to Municipal Capital Fund for improvements to City parks.

TRANSPORTATION IMPACT FEE FUND

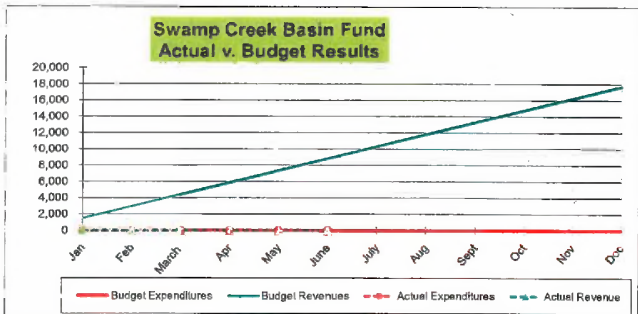
	2011-2012 Budget Expenditures	2011-2012 Actual Expenditures	2011-2012 Budget Revenue	2011-2012 Actual Revenue
Jan	84,794	0	39,172	32,089
Feb	169,589	0	78,345	48,133
March	254,383	0	117,517	80,222
Apr	339,177	0	156,680	88,244
May	423,972	0	195,861	88,244
June	508,766	0	235,034	112,502
July	593,560		274,206	
Aug	678,355		313,378	
Sept	763,149		352,550	
Oct	847,943		391,723	
Nov	932,738		430,895	
Dec	1,017,532		470,067	
2011-2012	1,367,532		943,962	
Total Actual to Date vs Total Budget		0%		12%



This fund accounts for City imposed transportation impact fees on new development. Expenditures are for public transportation improvements.

SWAMP CREEK BASIN FUND

	2011-2012 Budget Expenditures	2011-2012 Actual Expenditures	2011-2012 Budget Revenue	2011-2012 Actual Revenue
Jan	0	0	1,477	0
Feb	0	0	2,954	0
March	0	0	4,430	0
Apr	0	0	5,907	0
May	0	0	7,384	0
June	0	0	8,861	0
July	0		10,337	
Aug	0		11,814	
Sept	0		13,291	
Oct	0		14,768	
Nov	0		16,244	
Dec	0		17,721	
2011-2012	0		35,619	
Total Actual to Date vs Total Budget		0%		0%

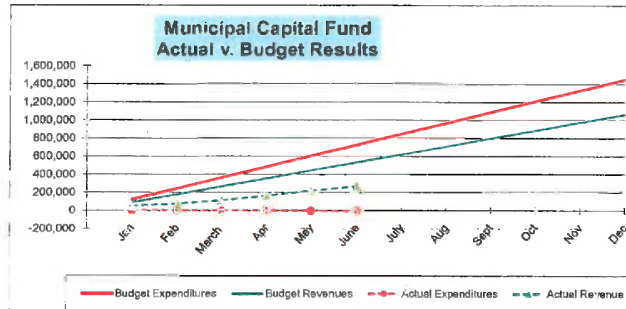


This fund accounts for the Memorandum of Agreement with King County which provided funds reserved for surface water projects, improvements, and maintenance within the Swamp Creek Basin.

**City of Kenmore, Washington
Other Funds Monthly Activity
June 30, 2011**

MUNICIPAL CAPITAL FUND

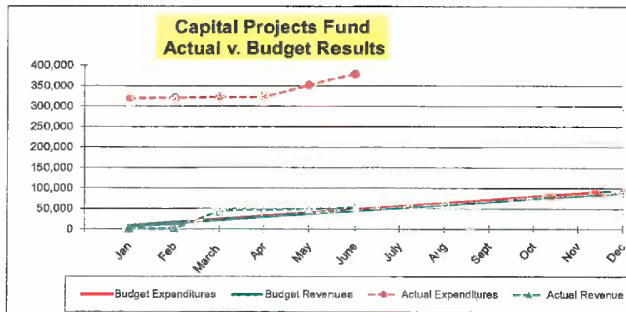
	2011-2012 Budget Expenditures	2011-2012 Actual Expenditures	2011-2012 Budget Revenue	2011-2012 Actual Revenue
Jan	120,622	0	88,632	48,679
Feb	241,245	0	177,264	76,105
March	361,867	0	265,896	113,307
Apr	482,489	0	354,527	164,931
May	603,112	0	443,159	218,294
June	723,734	(3,166)	531,791	271,718
July	844,356		620,423	
Aug	964,979		709,055	
Sept	1,085,601		797,687	
Oct	1,206,223		886,318	
Nov	1,326,846		974,950	
Dec	1,447,468		1,063,582	
2011-2012	3,346,018		2,038,341	
Total Actual to Date vs Total Budget		0%		13%



The Municipal Capital Fund accounts for the 1/2% real estate excise taxes levied by the City which are restricted to capital projects and improvements. Expenditures include park improvements and transfers to the Arterial Street Fund for transportation improvements.

CAPITAL PROJECTS FUND

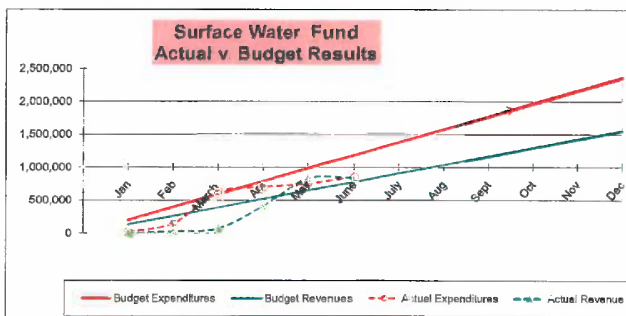
	2011-2012 Budget Expenditures	2011-2012 Actual Expenditures	2011-2012 Budget Revenue	2011-2012 Actual Revenue
Jan	7,951	319,303	7,401	2,738
Feb	15,902	321,118	14,802	4,264
March	23,853	322,887	22,203	42,431
Apr	31,803	325,215	29,604	47,157
May	39,754	352,611	37,006	49,144
June	47,705	379,257	44,407	53,808
July	55,656		51,808	
Aug	63,607		59,209	
Sept	71,558		66,610	
Oct	79,508		74,011	
Nov	87,459		81,412	
Dec	95,410		88,813	
2011-2012	190,819		191,078	
Total Actual to Date vs Total Budget		199%		28%



The Capital Projects Fund accounts for leasing activity within Kenmore Village and contributions to ARCH (A Regional Coalition for Housing).

SURFACE WATER MANAGEMENT FUND

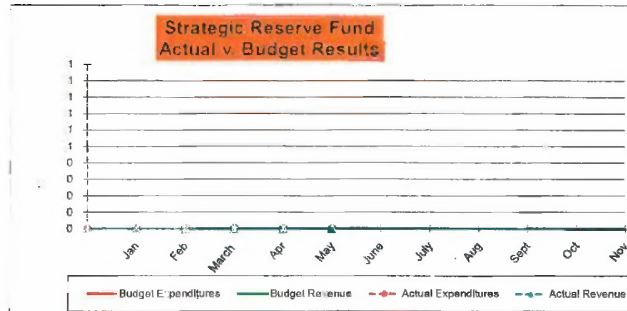
	2011-2012 Budget Expenditures	2011-2012 Actual Expenditures	2011-2012 Budget Revenue	2011-2012 Actual Revenue
Jan	197,009	21,232	129,837	3,070
Feb	394,019	144,148	259,673	23,504
March	591,028	623,944	389,510	69,576
Apr	788,037	699,033	519,346	411,501
May	985,047	752,925	649,183	826,993
June	1,182,056	855,025	779,019	834,249
July	1,379,065		908,856	
Aug	1,576,075		1,038,692	
Sept	1,773,084		1,168,529	
Oct	1,970,093		1,298,365	
Nov	2,167,103		1,428,202	
Dec	2,364,112		1,558,038	
2011-2012	3,726,109		3,128,748	
Total Actual to Date vs Total Budget		23%		27%



This fund accounts for receipts from surface water assessments. The assessments are collected through the property tax billings; the majority of the receipts are collected in May and November. Expenditures are for surface water maintenance activities such as sweeping and drainage as well as capital improvements.

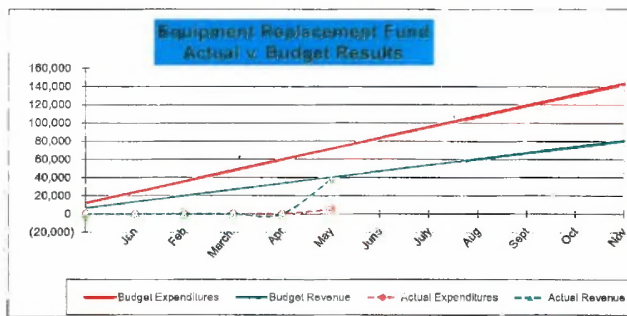
**City of Kenmore, Washington
Other Funds Monthly Activity
June 30, 2011**

STRATEGIC RESERVE FUND				
	2011-2012 Budget Expenditures	2011-2012 Actual Expenditures	2011-2012 Budget Revenue	2011-2012 Actual Revenue
Jan	0	0	0	0
Feb	0	0	0	0
March	0	0	0	0
Apr	0	0	0	0
May	0	0	0	0
June	0	0	0	0
July	0	0	0	0
Aug	0	0	0	0
Sept	0	0	0	0
Oct	0	0	0	0
Nov	0	0	0	0
Dec	0	0	0	0
2011-2012	0	0	0	0
Total Actual to Date vs Total Budget		0%	0%	0%



This fund was created to serve as the City's emergency reserve fund. Per State Statute, the fund cannot exceed \$.375 per \$1,000 of the City's assessed value and is fully funded at \$1,284,464 for 2011. No expenditures are anticipated or have been budgeted at this time.

EQUIPMENT REPLACEMENT FUND				
	2011-2012 Budget Expenditures	2011-2012 Actual Expenditures	2011-2012 Budget Revenue	2011-2012 Actual Revenue
Jan	11,858	0	6,756	0
Feb	23,916	0	13,512	0
March	35,874	0	20,268	0
Apr	47,832	0	27,024	0
May	59,790	0	33,780	0
June	71,749	4,678	40,536	37,901
July	83,707		47,292	
Aug	95,665		54,048	
Sept	107,623		60,804	
Oct	119,581		67,560	
Nov	131,539		74,316	
Dec	143,497		81,072	
2011-2012	143,497		161,620	
Total Actual to Date vs Total Budget		3%	23%	



This fund is used to maintain a reserve for future replacement of equipment, including, but not limited to furniture, computers and vehicles. Payments are received from various operating departments and funds that benefit from or use the assets.

**City of Kenmore, Washington
Cash and Investment Report
June 30, 2011**



<u>Fund</u>	<u>Beg. Cash & Inv from Prev. Mo.</u>	<u>Monthly Revenues</u>	<u>Monthly Expenditures</u>	<u>End. Cash & Inv. Current Month</u>
General	\$7,038,641	\$521,712	\$365,608	\$7,194,745
Street	1,940,941	29,929	75,007	1,895,863
Arterial Street	480,312	0	76,479	403,833
Public Art	68,245	0	0	68,245
Park Impact Fee	1,381,000	7,298	0	1,388,298
Transp Impact Fee	633,899	24,258	0	658,157
Swamp Creek Basin	1,762,640	0	0	1,762,640
Municipal Capital	2,084,600	53,434	-3,166	2,141,200
Capital Projects	(242,744)	4,664	26,646	-264,726
Capital Projects-Retainage	443,599	0	443,599	0
Surface Water Mgt.	1,664,348	7,256	102,100	1,569,504
Strategic Reserve	1,264,465	0	0	1,264,465
Equipment Replacement	524,311	37,901	4,878	557,334
Trust & Agency	298,780	8,234	24,850	282,164
Totals	\$19,343,037	\$694,686	\$1,116,001	\$18,921,722

<u>Fund</u>	<u>Cash, Savings, Local Govt Investment Pool</u>	<u>(+/- One Year) Fixed Investments</u>	<u>Total</u>
General	\$2,432,098	\$4,762,282	\$7,194,380
Street	1,045,864	850,000	1,895,864
Arterial Street	403,833	0	403,833
Public Art	53,245	15,000	68,245
Park Impact Fee	458,298	930,000	1,388,298
Transp Impact Fee	628,158	30,000	658,158
Swamp Creek Basin	362,640	1,400,000	1,762,640
Municipal Capital	2,141,201	0	2,141,201
Capital Projects	(714,727)	450,000	-264,727
Surface Water Mgt.	1,059,504	510,000	1,569,504
Strategic Reserve	414,465	850,000	1,264,465
Equipment Replacement	107,333	450,000	557,333
Trust & Agency	182,163	100,000	282,163
Totals	\$8,574,075	\$10,347,282	\$18,921,357

City of Kenmore, Washington
Schedule of Investments
June 30, 2011



		Average Yield to Maturity-Securities					Overall Average Yield		0.43%
Report by Security	Investment #	Type	Maturity Date	Purchase Date	Rate	Yield	Possible Call Date	Principal or Balance	Yield Equivalents
Piper Jaffray									
	313371PC4	FHLB	12/12/2014	6/7/2011	0.88%	1.13%	no call	991,238.90	11,201.00
	3134G14C5	FHLMC	3/7/2013	3/7/2011	1.00%	1.00%	3/7/2012	1,000,000.00	10,000.00
Total Piper Jaffrey Purchases								1,991,238.90	10,000.00
Time Value Investments									
	313586QR3	FNMA	7/5/2014	6/7/2011	1.00%	1.00%	no call	998,858.37	9,988.58
	31386A6K3	FNMA	11/29/2013	3/1/2011	0.80%	0.80%	11/29/2011	989,229.77	7,913.84
	3134G1K60	FHLMC	12/28/2015	12/28/2010	2.05%	2.05%	12/28/2011	1,000,000.00	20,500.00
	31386A4N9	FNMA	10/15/2013	12/8/2010	1.00%	1.00%	4/15/2011	999,990.00	9,999.90
Total TVI Purchases								3,988,078.14	38,413.74
Wells Fargo Bank									
	313374CY4	FHLB	12/30/2014	6/30/2011	0.75%	0.75%	3/30/2012	1,000,000.00	7,500.00
	3134G14G6	FHLMC	2/25/2013	2/25/2011	1.00%	1.00%	8/25/2011	1,000,000.00	10,000.00
Total Wells Fargo Purchases								2,000,000.00	17,500.00
Banner Bank CD's									
	5740005425	CD	2/6/2012	2/6/2011	0.80%	0.80%		1,132,694.88	9,061.56
Total Banner Bank CD's								1,132,694.88	9,061.56
Sound Community Bank CD's									
	18298229	CD	8/11/2012	2/11/2011	0.55%	0.55%		1,000,000.00	5,500.00
Total Sound Community Bank CD's								1,000,000.00	5,500.00
Opus Bank CD's									
	280128104	CD	3/15/2012	3/16/2011	0.39%	0.39%		80,000.00	801.00
	280131082	CD	3/8/2012	3/10/2011	0.65%	0.65%		150,000.00	975.00
Total Cascade Bank CD's								240,000.00	1,776.00
TOTAL ALL SECURITIES								\$ 10,352,011.92	\$ 64,751.30
					Banner Checking and Savings		0.25% Banner	53,340,758.58	8,351.90
					Opus Bank		0.25%	11,048.64	27.62
					Cash			1,005.00	-
					Local Government Investment Pool		0.16% LGIP	\$5,221,261	8,354.02
					Total Accounts			\$ 18,926,085.14	81,484.83

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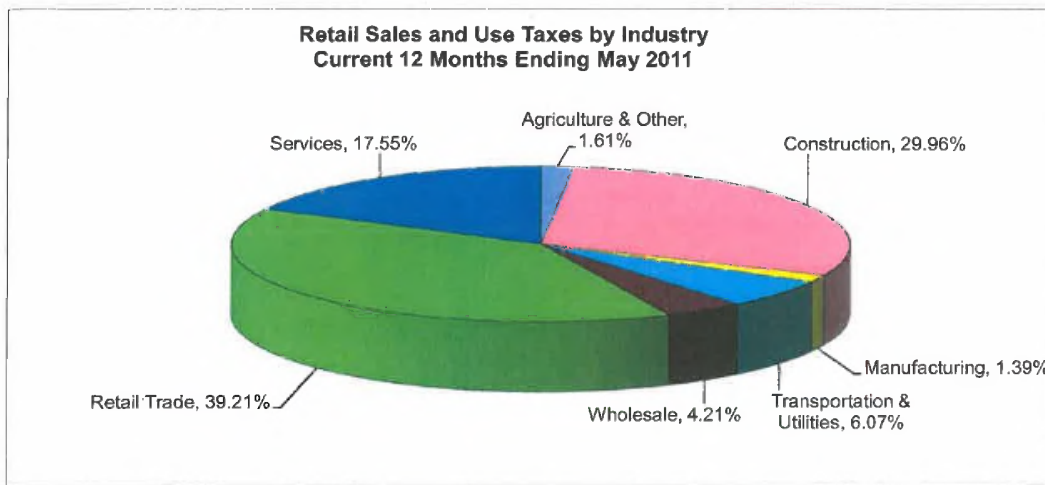
City of Kenmore, Washington
SALES TAX RECEIPTS BY BUSINESS TYPE
 June 2011

	SALES TAX	USE TAX	TOTAL	PERCENT
AGRICULTURE & OTHER	2,220.22	15.27	2,235.49	1.7%
CONSTRUCTION	22,404.71	399.06	22,803.77	17.8%
MANUFACTURING	4,214.04	17.29	4,231.32	3.3%
TRANSPORTATION & UTILITIES	8,385.82	544.10	8,929.92	7.0%
WHOLESALE	6,811.27	123.71	6,934.98	5.4%
RETAIL TRADE	56,292.49	359.95	56,652.44	44.1%
SERVICES	23,595.32	567.81	24,163.13	18.8%
PUBLIC SERVICES	90.72	2,325.92	2,416.63	1.9%
	124,014.58	4,353.10	128,367.68	100.0%

City of Kenmore, Washington
Retail Sales and Use Tax Distribution
June 30, 2011



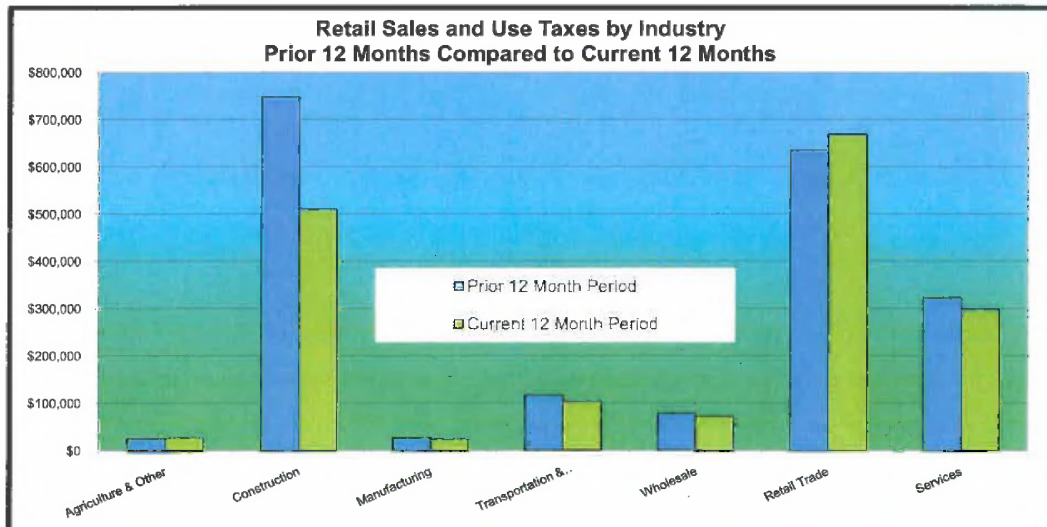
Industry	Prior 12 Months ending June 2010	Current 12 Months ending June 2011	% Increase/ (Decrease)	% of Total
Agriculture & Other (Landscaping, Animal Hospitals)	\$25,451	\$27,347	7.45%	1.61%
Construction	746,928	510,216 *	-31.69%	29.96%
Manufacturing (Printing, Publishing, Other Manuf.)	26,735	23,729	-11.24%	1.39%
Transp/Comm/Utilities (Telecomm., Air Transport.)	116,302	103,391	-11.10%	6.07%
Wholesale (Lumber, Other Wholesale)	77,970	71,734	-8.00%	4.21%
Retail Trade (Eating, Merchandise, Food Stores)	635,116	667,854	5.15%	39.21%
Services (Auction, Recreation, Auto Repair, Financial)	322,489	298,947	-7.30%	17.55%
Totals	\$1,950,991	\$1,703,218	-12.70%	100%
Increase/(Decrease)		(\$247,773)	-12.70%	



NOTE: Due to the City's Confidentiality Agreement with the Department of Revenue, specific business information cannot be disclosed.

* Approximately 10% of this is due to the Brightwater project.

There is a sixty-day lag between sales taxes collected and when they are remitted to the City



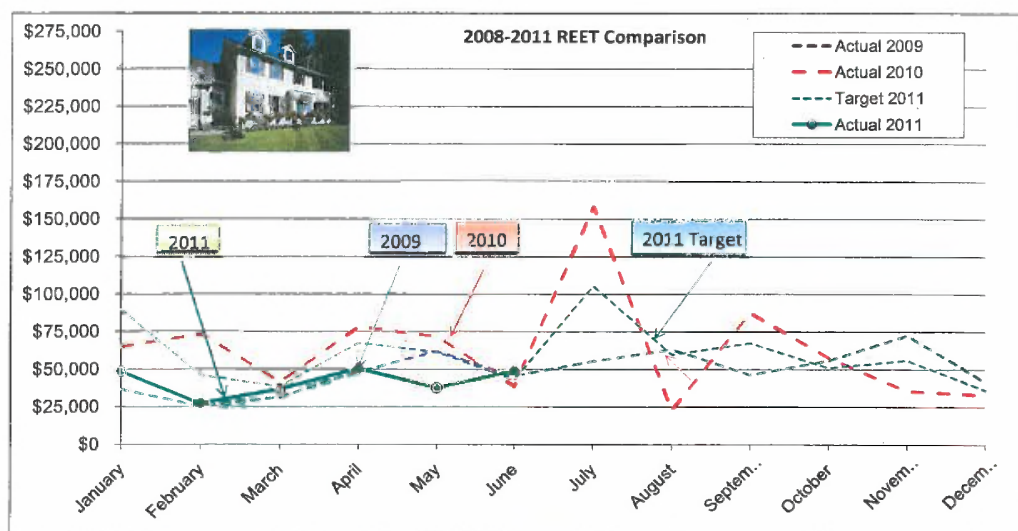
City of Kenmore, Washington
Real Estate Excise Tax Report
June 30, 2011



	Actual 2008	Actual 2009	Actual 2010	Actual 2011	Target 2011
January	167,796	36,640	64,792	48,679	89,743
February	39,354	25,466	73,383	27,294	46,068
March	42,409	31,468	41,445	36,507	38,441
April	75,958	48,355	78,233	50,463	67,515
May	50,369	61,743	71,622	37,671	61,245
June	45,084	45,639	38,919	48,938	43,214
July	102,721	55,328	158,221		105,423
August	93,364	63,161	23,033		59,853
September	68,457	46,508	87,734		67,566
October	39,607	55,905	57,761		51,091
November	60,295	72,456	35,585		56,112
December	34,608	41,723	32,962		36,431
	\$820,021	\$584,392	\$763,689	\$249,552	\$722,701

For 2011 Taxes are \$118,842 less than the same period last year and below the 2011 target by \$96,674

					Taxes from > \$500,000 Sale Amounts			
	2008	2009	2010	2011	2008	2009	2010	2011
January	28,479,285	3,809,950	3,790,500	1,046,085	140,972	18,859	18,763	5,178
February	4,994,900	2,819,838	4,805,000	547,257	24,725	13,958	23,785	2,709
March	6,016,500	2,923,000	1,149,000	1,100,000	29,782	14,469	5,688	5,445
April	9,089,830	3,942,750	1,779,000	1,075,000	44,995	19,517	8,806	5,321
May	4,285,470	7,254,950	1,859,000	2,372,000	21,213	35,912	9,202	11,741
June	5,868,926	560,000	540,000	2,605,000	29,051	2,772	2,673	12,895
July	15,533,779	3,739,900	16,013,000		76,892	18,513	89,164	0
August	12,492,130	3,857,600	1,020,000		61,836	19,095	5,049	0
September	6,504,602	2,275,000	11,276,760		32,198	11,261	55,820	0
October	3,397,877	5,949,213	610,000		16,819	29,449	3,020	0
November	5,851,865	6,393,000	1,020,000		28,967	31,645	5,049	0
December	619,950	1,855,348	2,178,000		3,069	9,184	10,781	0
	\$103,135,114	\$45,380,549	\$48,040,260	\$8,745,342	\$510,519	\$224,634	237,800	43,289



* NOTE THE 2011 TARGET IS BASED ON A 3-YEAR AVERAGE (2008-2010) OF ACTUAL RECEIPTS.

**City of Kenmore, Washington
Monthly Report for Kenmore Village
June 30, 2011**



Revenues

Lease Income USPS (6700 Building)
Return of Security Deposit
Other Rent Income
Insurance Proceeds
Leasehold Excise Returned

Total Revenues

June Activity	Biennium-to- Date	Biennium Budget
\$ 3,415	\$ 13,354	\$ 88,266
	3,257	0
750	3,000	0
	19,672	0
499	2,025	0
4,664	41,308	88,266

Expenditures

6700 Building Improvements
Utilities and Insurance - Kenmore Village

Total Expenditures

Net Income (Loss)

972	8,036	40,820
24,672	50,589	0
25,644	58,625	40,820
\$ (20,980)	\$ (17,317)	\$ 47,446

City of Kenmore, Washington
SR 522 Phase I Revenue and Expenditure History
as of June 30, 2011

Phase I		**Actuals Received on Cash Basis**					
Stage 3 Burke Gilman Trail @ 73rd Ave NE-nearing completion							
Stage 1 SR 522 Central Segment 65th to 73rd and other improvements, in construction							
Stage 2 SR 522 West Segment 57th to 65th and other improvements, pending funding							
		Cumulative through 2008	2009	2010	June 2011	Year to Date 2011	Life to Date
Revenues:							
Wa State Transportation Improve. Board:							
to Street Fund	5,047,000	851,786	0	0	0	0	851,786
to Arterial Street Fund	0	148,214	2,545,308	1,501,692	0	0	4,195,214
Wa State Gas Tax	4,663,620	3,119,047	1,765,416	0	0	0	4,884,463
Federal Surface Transportation Prog	12,045,444	1,708,895	8,535,460	1,781,817	0	0	12,026,172
Brightwater	15,000	15,000	0	0	0	0	15,000
Federal: Wa State Dept of Trans Signal	357,914	0	0	546,862	0	0	546,862
King County Parks	906,500	514,616	201,467	0	0	0	716,083
King County Roads	350,000	350,000	0	0	0	0	350,000
Northshore Utility District Reimb	432,400	80,559	0	0	0	0	80,559
Puget Sound Energy Reimb	264,100	0	0	0	0	0	0
Northshore School Dist Reimb	22,258	0	0	0	0	0	0
Library Reimb	10,000	0	0	0	0	0	0
Comcast Reimb	168,800	88,620	0	0	0	0	88,620
Urban Partners	75,000	0	25,000	54,438	0	0	79,438
Fire District Reim	49,000	0	0	0	0	0	0
City Art Fund	126,486	0	0	0	0	0	0
City Funds:	5,607,259	0	0	0	0	0	0
Transfer from REET Muni Cap		1,083,250	0	3,290,000	0	0	4,373,250
Transfer from Street Fund		0	0	521,870	0	0	521,870
Stage 1/181st		0	334,000	0	0	0	334,000
Stage 2	700,000	0	700,000	0	0	0	700,000
Transfer from Trans Impact Fees		900,000	0	0	0	0	900,000
Total Revenues	30,840,772	8,859,987	14,106,651	7,696,679	0	0	30,663,317
Expenditures:							
Street Fund		15,148,961	1,090	0	0	0	15,150,051
Street-Interfund Loan Interest		0	0	0	0	0	0
1% Art Fund		0	0	0	0	0	0
Arterial Street Fund		253,860	11,708,313	2,874,519	2,433	73,866	14,910,558
Stage 2 Design			483,830	435,358	0	4,061	923,249
Arterial Street Fund							
Muni Cap Fund		46,782	0	0	0	0	46,782
Total Expenditures		15,449,603	12,193,233	3,309,877	2,433	142,977	31,030,640

City of Kenmore, Washington
SR 522 Phase II Revenue and Expenditure History
as of June 30, 2011

Phase II

SR 522 East Segment, 73rd to 83rd, nearing completion

****Actuals Received on Cash Basis****

Revenues:

	Secured:	Cumulative through 2008	2009	2010	June 2011	Year to Date 2011	Life to Date
Wa State Transportation Improve. Board:	3,450,000	3,145,975	131,526	172,500	0	0	3,450,000
Sound Transit	8,192,307	8,192,307	0	0	0	0	8,192,307
Brightwater	250,000	0	0	0	0	0	0
Federal Grant via WSDOT	697,312	578,381	91,120	0	0	0	669,501
Federal: WSDOT Signal/Overlay	683,608	185,272	498,322	0	0	0	683,594
Regional Mobility WSDOT	1,800,000	1,441,827	358,173	0	0	0	1,800,000
King County Metro	400,000	0	0	400,000	0	0	400,000
Wa State Gas Tax Grant	8,336,380	4,636,717	2,951,182	439,620	0	0	8,027,519
Comcast Reimb	147,770	92,680	0	55,090	0	0	147,770
Northshore Utility District Reimb	1,621,486	1,024,376	441,836	0	0	0	1,466,212
Northshore School District Reimb	28,914	0	0	0	0	0	0
PSE Reimbursement	150,000	0	0	0	0	0	0
City: Art Fund	161,006	0	0	0	0	0	0
City:	2,870,793	0	0	0	0	0	0
Investment Earnings		92,191	15,331	2,532	0	0	110,054
Fuel Tax		274,153	0	0	0	0	274,153
Transfer of Trans Impact Fees		512,000	430,698	450,000	0	0	1,392,698
Transfer from Street Fund		0	0	1,000,000	0	0	1,000,000
Transfer of REET		1,096,420	0	0	0	0	1,096,420

Total Revenues

28,789,576 21,272,299 4,918,188 2,519,742 0 0 28,710,229

Expenditures:

Arterial Street	22,497,211	4,671,626	1,068,152	28,941	551,535	28,788,523
Interfund Loan Interest	127,175	0	0	0	0	127,175
Art 1%	0	0	0	0	0	0
Transportation Impact Fee Fund	100,000	0	0	0	0	100,000

Total Expenditures

22,724,386 4,671,626 1,068,152 28,941 551,535 29,015,698

CITY OF KENMORE, WASHINGTON																			
AGENDA BILL SUMMARY																			
AGENDA TITLE			MEETING DATE																
Approve a Project Design Agreement with Puget Sound Energy for Undergrounding Aerial Facilities as part of the 61 st Avenue NE and NE 181 st Street Signal Improvement Project.			July 25, 2011																
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE																
Engineering	Ron Loewen	Ron Loewen	425 398 8900																
COST OF PROPOSAL: <u>Staff Cost:</u> Preparing agenda bill 2hours Administering design agreement 40 hours <u>Contract Services:</u> Puget Sound Energy Costs <table border="1"> <thead> <tr> <th>Phase</th> <th>City Share</th> <th>PSE Share</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Design</td> <td>\$ 8,500</td> <td>\$12,750</td> <td>\$ 21,250</td> </tr> <tr> <td>Construction</td> <td>\$45,260</td> <td>\$67,890</td> <td>\$113,150</td> </tr> <tr> <td>Total</td> <td>\$53,760</td> <td>\$80,640</td> <td>\$134,000</td> </tr> </tbody> </table>		Phase	City Share	PSE Share	Total	Design	\$ 8,500	\$12,750	\$ 21,250	Construction	\$45,260	\$67,890	\$113,150	Total	\$53,760	\$80,640	\$134,000	ACCOUNT NUMBER: 09 00 7097 61 st Ave/NE 181 st Signal	
Phase	City Share	PSE Share	Total																
Design	\$ 8,500	\$12,750	\$ 21,250																
Construction	\$45,260	\$67,890	\$113,150																
Total	\$53,760	\$80,640	\$134,000																
AMOUNT BUDGETED: Approved Project Budget (June 20, 2011) \$2,771,900 Includes City's share of estimated Puget Sound Energy Design and Construction Services of \$75,000		NAME AND FUND #: Arterial Street Fund No. 09																	
ATTACHMENT(S) TO AGENDA PACKET ITEM: • Schedule 74 Underground Conversion: Project Design Agreement • June 27, 2010 Agenda Bill • September 27, 2010 Agenda Bill • July 26, 2010 Agenda Bill • February 8, 2010 Agenda Bill																			
SUMMARY STATEMENT: The City Council on June 20, 2011, amended the 61 st Avenue NE and NE 181 st Street Traffic Signal project scope of work to include undergrounding of aerial facilities. The undergrounding will begin approximately 100 feet north of SR 522 and extend to 200 feet north of NE 181 st Street along 61 st Avenue NE. The undergrounding will require converting aerial facilities for Puget Sound Energy (PSE), Frontier (previously Verizon), Comcast and service to two commercial buildings. Most of the underground design was completed under the SR 522 Phase I Stage 2 project. However some modification of that design is required to allow this undergrounding to be separated from the original project. PSE will design the undergrounding of their facilities under a standard Schedule 74 Underground Conversion Project Design Agreement. PSE will prepare a formal estimate of anticipated design costs. If the City approves the estimate PSE will proceed with the design. Under Schedule 74 undergrounding guidelines the city will be responsible for only 40% of these costs if the project is constructed within the next 5 years. If the project is not constructed the City would be responsible for 100% of the costs.																			

VD. Approve Project Design Contract No. 11-C955 with Puget Sound Energy for Undergrounding Aerial Facilities as Part of the 61st Avenue NE and NE 181st Street Signal

Once the design is completed and the construction estimate accepted by the City a construction agreement will be prepared. Once again the city will be responsible for only 40% of the construction costs.

Additional agreements will be prepared with Frontier and Comcast and submitted in the future.

Project Design will be completed in the next several months with bid advertisement scheduled for late December 2011.

CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION:

Council set a priority for SR 522 in 2008 and reaffirmed in 2009 with council action on December 1, 2008 - Agenda title: Consider Projects for Federal Stimulus Package and Potential Action for Authorization to Design and Right of way Acquisition for SR 522 Phase I Stage 2.

City Council action on July 26th, authorizing the design and right of way acquisition for the 61st Avenue NE and NE 181st Street signal.

City Council action on September 27, 2010 selecting an alternative authorizing the design and right of way acquisition for the 61st Avenue and NE 181st signal project.

City Council action on June 20, 2011 modifying the project scope of work to include undergrounding of aerial facilities.

RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION:

Approve a Project Design Agreement with Puget Sound Energy for Undergrounding Aerial Facilities as part of the 61st Avenue NE and NE 181st Street Signal Improvement Project.

REVIEWED BY FINANCE
DIRECTOR:



REVIEWED BY CITY
ATTORNEY:

APPROVED BY CITY MANAGER:



TODAY'S DATE:
July 11, 2011

REVISION DATE(S):

FILE NAME & PATH (HYPERLINK):
S:\0159 61st Ave NE and NE 181st St Traffic
Signal\Council\July 25\110725_agenda_bill.doc

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Approve a Project Design Agreement with Puget Sound Energy for Undergrounding Aerial Facilities as part of the 61 st Avenue NE and NE 181 st Street Signal Improvement Project.			July 25, 2011
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Engineering	Ron Loewen	Ron Loewen	425 398 8900
COST OF PROPOSAL: <u>Staff Cost:</u> Preparing agenda bill 2hours Administering design agreement 40 hours <u>Contract Services:</u> Puget Sound Energy: Estimated \$20,000		ACCOUNT NUMBER: 09 00 7097 61 st Ave/NE 181 st Signal	
AMOUNT BUDGETED: Approved Project Budget (June 20, 2011) \$2,771,900 Includes Estimated Puget Sound Energy Design Services of \$20,000		NAME AND FUND #: Arterial Street Fund No. 09	
ATTACHMENT(S) TO AGENDA PACKET ITEM: • Schedule 74 Underground Conversion: Project Design Agreement • June 27, 2010 Agenda Bill • September 27, 2010 Agenda Bill • July 26, 2010 Agenda Bill • February 8, 2010 Agenda Bill			
SUMMARY STATEMENT: The City Council on June 20, 2011, amended the 61st Avenue NE and NE 181st Street Traffic Signal project scope of work to include undergrounding of aerial facilities. The undergrounding will begin approximately 100 feet north of SR 522 and extend to 200 feet north of NE 181st Street along 61st Avenue NE. The undergrounding will require converting aerial facilities for Puget Sound Energy (PSE), Frontier (previously Verizon), Comcast and service to two commercial buildings. Most of the underground design was completed under the SR 522 Phase I Stage 2 project. However some modification of that design is required to allow this undergrounding to be separated from the original project. PSE will design the undergrounding of their facilities under a standard Schedule 74 Underground Conversion Project Design Agreement. Under Schedule 74 undergrounding guidelines the city will be responsible for only 40% of these costs if the project is constructed within the next 5 years. Once the design is completed and accepted by the city a construction agreement will be prepared. Once again the city will be responsible for only 40% of the construction costs. Additional agreements will be prepared with Frontier and Comcast and submitted in the future. Project Design will be completed in the next several months with bid advertisement scheduled for late December 2011.			

VD. Approve Project Design Contract No. 11-C955 with Puget Sound Energy for Undergrounding Aerial Facilities as Part of the 61st Avenue NE and NE 181st Street Signal

CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION:		
Council set a priority for SR 522 in 2008 and reaffirmed in 2009 with council action on December 1, 2008 - Agenda title: Consider Projects for Federal Stimulus Package and Potential Action for Authorization to Design and Right of way Acquisition for SR 522 Phase I Stage 2. City Council action on July 26th, authorizing the design and right of way acquisition for the 61st Avenue NE and NE 181st Street signal. City Council action on September 27, 2010 selecting an alternative authorizing the design and right of way acquisition for the 61st Avenue and NE 181st signal project. City Council action on June 20, 2011 modifying the project scope of work to include undergrounding of aerial facilities.		
RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION:		
Approve a Project Design Agreement with Puget Sound Energy for Undergrounding Aerial Facilities as part of the 61 st Avenue NE and NE 181 st Street Signal Improvement Project.		
REVIEWED BY FINANCE DIRECTOR:	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER:
 TODAY'S DATE: July 11, 2011	REVISION DATE(S): 	FILE NAME & PATH (HYPERLINK): S:\0159 61st Ave NE and NE 181st St Traffic Signal\Council\July 25\110725_agenda_bill.doc

SCHEDULE 74 UNDERGROUND CONVERSION
Project Design Agreement

Project Name: City of Kenmore ~ 61 Ave NE & NE 181 St. (Signal)
Project Number: SAP Notification 11005083

THIS Agreement, dated as of this _____ day of _____, 2011, is made by and between City of Kenmore, a Washington Municipality (the "Government Entity"), and PUGET SOUND ENERGY, Inc., a Washington Corporation (the "Company").

RECITALS

- A. The Company is a public service company engaged in the sale and distribution of electric energy and, pursuant to its franchise or other rights from the Government Entity, currently locates its electric distribution facilities within the jurisdictional boundaries of the Government Entity.
- B. The Government Entity is considering conversion of the Company's existing overhead electric distribution system to a comparable underground electric distribution, as more specifically described in the Scope of Work (as defined in paragraph 2, below) furnished to the Company by the Government Entity (the "Conversion Project").
- C. The Government Entity has requested that the Company perform certain engineering design services and otherwise work cooperatively with the Government Entity to develop a mutually acceptable Project Plan (as defined in paragraph 6, below) for the Conversion Project, in accordance with and subject to the terms and conditions of this Agreement (the "Design Work").
- D. The Government Entity and the Company wish to execute this written contract in accordance with Schedule 74 of the Company's Electric Tariff G ("Schedule 74") to govern the Design Work for the Conversion Project.

AGREEMENT

The Government Entity and the Company therefore agree as follows:

1. Unless specifically defined otherwise herein, all terms defined in Schedule 74 shall have the same meanings when used in this Agreement.
2. The Government Entity shall, within ten (10) business days after the date of this Agreement, provide the Company with a written scope of work for the Conversion Project which includes, among other things, (a) a reasonably detailed description of the scope of the work required for the Conversion Project, (b) a list of the key milestone dates for the Conversion Project, (c) reasonably detailed drawings showing any associated planned improvements to the Public Thoroughfare, and (d) a statement as to whether the Government Entity desires to install the ducts and vaults for the Conversion Project (the "Scope of Work"). The Government Entity shall provide the Company two (2) hard copies of the Scope of Work and a copy of the relevant electronic file(s) in a mutually agreed electronic format.
3. Within ten (10) business days of its receipt of the Scope of Work, the Company shall prepare and submit to the Government Entity (a) a reasonably detailed, good faith estimate of the cost to perform the Design Work (the "Design Cost Estimate"), and (b) a proposed schedule for completion of the Design Work which, to the extent reasonably practicable, reflects the applicable key milestone dates

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61st Ave NE & NE 181st St. (Signal)

specified in the Scope of Work and provides for completion of the Design Work within ninety (90) business days from the date the Company receives the Government Entity's notice to proceed under paragraph 5, below (the "Design Schedule"). The proposed Design Cost Estimate and the proposed Design Schedule shall be based upon the then-current Scope of Work. Unless otherwise specified in the Scope of Work, the Design Work shall not include negotiation or acquisition of third party property rights but shall include preliminary planning between the Company and the Government Entity regarding their respective obligations for negotiating and acquiring third party property rights.

4. Within ten (10) business days after the Government Entity's receipt of the proposed Design Cost Estimate and the proposed Design Schedule from the Company, the Government Entity and the Company shall meet in order to (a) review the proposed Design Cost Estimate, (b) review the proposed Design Schedule; (c) review the Scope of Work, and (d) make any changes necessary to create a final Scope of Work, final Design Cost Estimate, and final Design Schedule that are reasonably acceptable to both parties. If the parties are unable to agree upon a final version of the Scope of Work, Design Cost Estimate, and/or Design Schedule, then either party may, by written notice to the other party, submit the matter for resolution pursuant to the dispute resolution procedures in paragraph 16, below. The final Scope of Work, Design Cost Estimate and Design Schedule, once determined in accordance with this paragraph 4, may thereafter be changed or amended only in accordance with the change procedures set forth in paragraph 13, below.
5. The Government Entity shall, within ten (10) business days after determination of the final of the Scope of Work, Design Cost Estimate, and Design Schedule, issue (a) a written notice to proceed which shall delineate the final Scope of Work, Design Cost Estimate, and Design Schedule, or (b) a written notice to terminate this Agreement without cost to the Government Entity. If the Government Entity terminates this Agreement, the costs incurred by the Company in preparing and submitting the Design Cost Estimate and the Design Schedule shall not be reimbursable to the Company, and the rights and obligations of the parties under this Agreement shall be terminated in their entirety and without liability to either party.
6. Following the Company's receipt of the notice to proceed, and within the applicable time period specified in the Design Schedule, the Company shall, with the cooperation and assistance of the Government Entity as outlined in this Agreement, prepare a project plan for the Conversion Project (the "Project Plan") which shall include, among other things, the following: (a) a detailed description of the work that is required to be performed by each party and any third party in connection with the Conversion Project (the "Construction Work"), (b) the applicable requirements, drawings, and specifications for the Construction Work, (c) a description of any operating and other property rights that are required to be obtained by each party for the Conversion Project (and the requirements and specifications with respect thereto), (d) a detailed estimate of the costs to be incurred by each party in its performance of the Construction Work, and (e) a detailed schedule for completing the Construction Work (including, without limitation, the dates for delivery of the ducts and vaults and other materials for use at the site of the Construction Work).
7. The Government Entity shall be responsible for coordinating the Design Work with all other design work to be performed in connection with the Conversion Project and any associated planned improvements to the Public Thoroughfare. The parties shall work together in an effort to mitigate the costs of the Conversion Project to each party, including, without limitation, identifying ways to accommodate the facilities of the Company to be installed as part of the Conversion Project within the Public Thoroughfare.
8. Within the applicable time period specified in the Design Schedule, the Company shall prepare and submit to the Government Entity a proposed initial draft of the Project Plan. The parties understand and acknowledge that the proposed Project Plan submitted by the Company shall be preliminary in nature and shall not include, without limitation, information required to be supplied by the Government Entity (e.g., scope and estimate of the cost of the Construction Work to be performed by the Government Entity).

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9. Within the applicable time period specified in the Design Schedule, the Government Entity shall (a) review the proposed Project Plan submitted by the Company, (b) complete any information required to be supplied by the Government Entity, (c) make any changes required to conform the proposed Project Plan to the Scope of Work and this Agreement, and (d) return the amended Project Plan to the Company.
10. Within the applicable time period specified in the Design Schedule, the Company shall review the amended Project Plan submitted by the Government Entity and notify the Government Entity in writing of either the Company's acceptance of, or the Company's specific objections to, the amended Project Plan. If the Company makes any objection to the amended Project Plan, and the parties are unable to resolve the objections and mutually agree upon the Project Plan prior to the final design date specified in the Design Schedule, then either party may, by written notice to the other party, submit the matter for resolution pursuant to the dispute resolution procedures in paragraph 16, below. The Project Plan, as mutually agreed upon by the parties or established through the dispute resolution process, shall be attached to and incorporated in a Project Construction Agreement substantially in the form attached hereto as Exhibit A (the "Construction Agreement") which is to be signed by the parties prior to commencement of the Construction Work.
11. The parties intend and agree that the Design Work and the Project Plan in its final form shall conform to the following requirements:
 - (a) The Project Plan shall, if requested by the Government Entity in its initial Scope of Work, specify that the Government Entity shall install the ducts and vaults for the Conversion Project; provided that (i) the parties mutually agree upon and set forth in the Project Plan (A) the costs of such installation work to be included in the Cost of Conversion, and (B) the specifications and standards applicable to such installation work, and (ii) such installation work is accomplished by the Government Entity in accordance with the applicable design and construction specifications provided by the Company and set forth in the Project Plan.
 - (b) Each estimate of the costs to be incurred by a party shall, at a minimum, be broken down by (i) the design and engineering costs, (ii) property and related costs, including any costs of obtaining operating rights, and (iii) construction costs, including and listing separately inspection, labor, materials, and equipment.
 - (c) All facilities of the Company installed as part of the Conversion Project shall be located, and all related property and operating rights shall be obtained, in the manner set forth in the applicable provisions of Schedule 74. The Project Plan shall describe in detail the location of such facilities, any related property and operating rights required to be obtained, and the relative responsibilities of the parties with respect thereto.
 - (d) The schedule set forth in the Project Plan for completing the Construction Work shall include, at a minimum, milestone time periods for completion of the Trenching, installation of ducts and vaults, the construction and removal of any Temporary Service, and the removal of overhead facilities.
 - (e) The Project Plan may include the specification of work and requirements for Government-Requested Upgrades and Company-Initiated Upgrades; provided, however, that the costs incurred by the Company with respect to the design and engineering of Company-Initiated Upgrades shall not be included in the costs reimbursable to the Company under this Agreement or the Construction Agreement. For purposes of the foregoing, (i) the term "Government-Requested Upgrade" shall mean any feature of the Underground Distribution System which is requested by the Government Entity and is not reasonably required to make the Underground Distribution System comparable to the overhead distribution system being replaced, and (ii) the term "Company-Initiated Upgrade" shall mean any feature of the Underground Distribution System which is required by the Company and is not reasonably required to make the Underground Distribution System comparable to the overhead distribution system being replaced. For

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purposes of subparagraph (ii), above, a "comparable" system shall include, unless the parties otherwise agree, the number of empty ducts (not to exceed two (2), typically having a diameter of 6" or less) of such diameter and number as may be specified and agreed upon in the final Scope of Work necessary to replicate the load-carrying capacity (system amperage class) of the overhead system being replaced. For purposes of subparagraph (i), above, any empty ducts installed at the request of the Government Entity shall be a Government-Requested Upgrade.

- (f) The Project Plan shall set forth all specifications, design standards and other requirements for the Construction Work and the Conversion Project, including, but not limited to, the following:
 - (i) applicable federal and state safety and electric codes and standards, (ii) applicable construction and other standards of the Company, and (iii) applicable street design and other standards of the Government Entity which are in effect as of the commencement of the Conversion Project.
- 12. Upon request of the Government Entity, and in any event at the times specified in the Design Schedule, the Company shall provide periodic reports which compare the actual costs of the Design Work incurred to that point in time to the Design Cost Estimate, as changed or amended in accordance with paragraph 13, below. Further, if at any time the Company reasonably expects that the actual cost of the Design Work will exceed the Design Cost Estimate, as changed or amended in accordance with paragraph 13, below, the Company shall notify the Government Entity immediately. Upon receipt of the Company's notice, the Government Entity may, at its option,
 - (a) notify the Company in writing that this Agreement is terminated; or
 - (b) request a reasonably detailed explanation supported by documentation (reasonably satisfactory to the Government Entity) to establish that the actual costs in excess of the Design Cost Estimate are:
 - (i) reasonable,
 - (ii) consistent with the Scope of Work, and
 - (iii) consistent with sound engineering practices.

If the Government Entity requests an explanation, the Government Entity shall, within ten (10) business days after receipt of the explanation,

- (a) change the Scope of Work in accordance with paragraph 13, below, or
- (b) direct the Company to continue with the Design Work without a change in the Scope of Work, but reserving to the Government Entity the right to dispute the reasonableness of the costs to be paid the Company under paragraph 14, below, in accordance with the dispute resolution procedures in paragraph 16, below, or
- (c) direct the Company to discontinue performing the Design Work pending resolution, pursuant to paragraph 16, below, of any dispute regarding the reasonableness of the costs, in which event the Design Schedule will be adjusted to reflect the delay, or
- (d) notify the Company in writing that this Agreement is terminated.

In the event the Government Entity terminates this Agreement or discontinues the performance of the Design Work under subparagraph (c), above, for more than ninety (90) days, the Government Entity shall pay the Company for all costs incurred by the Company in its performance of the Design Work prior to the date the Company receives the Government Entity's notice of termination, plus any costs incurred by the Company for materials and other items ordered or procured by the Company with the prior authorization of the Government Entity in order to meet the schedule for the Conversion Project. The foregoing payment obligation shall survive any termination of this Agreement.

13. (a) Either party may, at any time, by written notice thereof to the other party, request changes to the Scope of Work (a "Request for Change"). No Request for Change shall be effective and binding upon the parties unless signed by an authorized representative of each party. If any approved Request for Change would cause an increase in the cost of, or the time required for, the performance of any part of the Design Work, an equitable adjustment in the Design Cost Estimate and the Design Schedule shall be made to reflect such increase. The parties shall negotiate in good faith with the objective of agreeing in writing on a mutually acceptable equitable adjustment. If the parties are unable to agree upon the terms of the equitable adjustment, either party may submit the matter for resolution pursuant to the dispute resolution procedures in paragraph 16, below. Notwithstanding any dispute or delay in reaching agreement or arriving at a mutually acceptable equitable adjustment, each party shall, if requested by the other party, proceed with the Design Work in accordance with the Request for Change. Any such request to proceed must be accompanied by a written statement setting forth the requesting party's reasons for rejecting the proposed equitable adjustment of the other party.
- (b) The Design Cost Estimate and/or the Design Schedule shall be equitably adjusted from time to time to reflect any change in the costs or time required to perform the Design Work to the extent such change is caused by: (i) any Force Majeure Event under paragraph 17, below, (ii) the discovery of any condition within the Conversion Area which affects the scope, cost, schedule or other aspect of the Design Work and was not known by or disclosed to the affected party prior to the date of this Agreement, or (iii) any change or inaccuracy in any assumptions regarding the scope, cost, schedule or other aspect of the Design Work which are expressly identified by the parties in the final Scope of Work. Upon the request of either party, the parties will negotiate in good faith with the objective of agreeing in writing on a mutually acceptable equitable adjustment. If, at any time thereafter, the parties are unable to agree upon the terms of the equitable adjustment, either party may submit the matter for resolution pursuant to the dispute resolution provisions in paragraph 16, below.
14. Upon completion of the Design Work (i.e., the date on which the Project Plan is final under paragraph 10, above, either by mutual agreement of the parties or as established through the dispute resolution procedures), the Government Entity shall pay the Company all actual, reasonable costs to the Company for the Design Work (which, if disputed in good faith by the Government Entity, may be submitted by either party for resolution pursuant to the dispute resolution provisions in paragraph 16, below), plus any costs incurred by the Company for materials and other items ordered by the Company with the prior authorization of the Government Entity in order to meet the schedule for the Conversion Project. If, thereafter, the Construction Agreement is executed by the parties and the Conversion Project is completed within five (5) years from the date of this Agreement, the full amount of the costs incurred by the Company in its performance of the Design Work shall be included in the "Shared Company Costs" under the Construction Agreement and any payment of such amounts under this Agreement shall be credited to the Government Entity in calculating the "Net Amount" payable under the Construction Agreement.
15. Within sixty (60) business days after completion of the Design Work, the Company shall issue to the Government Entity an itemized invoice for the amounts payable under this Agreement. Such invoice shall be in a form mutually agreed upon by the Company and the Government Entity and shall, at a minimum, itemize the design and engineering costs, including and listing separately inspection, labor, materials and equipment. In the event the Government Entity does not verify such invoice within ten (10) business days of receipt, the Government Entity shall provide a written request to the Company specifying the additional information needed to verify the invoice. The Company will provide, within a reasonable period after receipt of any request, such documentation and information as the Government Entity may reasonably request to verify such invoice. The Government Entity shall pay the Company all amounts payable under this Agreement within thirty (30) days after receipt of the Company's invoice. Payment as provided in this Agreement shall be full compensation for the Company's performance of the Design Work, including without limitation all services rendered and all materials, supplies, equipment, and incidentals necessary to complete the Design Work.

16. Dispute Resolution Procedures:

- (a) Any dispute, disagreement or claim arising out of or concerning this Agreement must first be presented to and considered by the parties. A party who wishes dispute resolution shall notify the other party in writing as to the nature of the dispute. Each party shall appoint a representative who shall be responsible for representing the party's interests. The representatives shall exercise good faith efforts to resolve the dispute. Any dispute that is not resolved within ten (10) business days of the date the disagreement was first raised by written notice shall be referred by the parties' representatives in writing to the senior management of the parties for resolution. In the event the senior management are unable to resolve the dispute within twenty (20) business days (or such other period as the parties may agree upon), each party may pursue resolution of the dispute through other legal means consistent with the terms of this Agreement. All negotiations pursuant to these procedures for the resolution of disputes shall be confidential and shall be treated as compromise and settlement negotiations for purposes of the state and federal rules of evidence.
 - (b) Any claim or dispute arising hereunder which relates to the Scope of Work, Design Cost Estimate, and Design Schedule under paragraph 4, above; the Project Plan under paragraph 10, above; or any Request for Change (including, without limitation, any associated equitable adjustment) under paragraph 13, above; and is not resolved by senior management within the time permitted under paragraph 16(a), above, shall be resolved by arbitration in Seattle, Washington, under the Construction Industry Arbitration Rules of the American Arbitration Association then in effect. The decision(s) of the arbitrator(s) shall be final, conclusive and binding upon the Parties. All other disputes shall be resolved by litigation in any court or governmental agency, as applicable, having jurisdiction over the Parties and the dispute.
 - (c) In connection with any arbitration under this paragraph 16, costs of the arbitrator(s), hearing rooms and other common costs shall be divided equally among the parties. Each party shall bear the cost and expense of preparing and presenting its own case (including, but not limited to, its own attorneys' fees); provided, that, in any arbitration, the arbitrator(s) may require, as part of his or her decision, reimbursement of all or a portion of the prevailing party's costs and expenses by the other party.
 - (d) Unless otherwise agreed by the parties in writing, the parties shall continue to perform their respective obligations under this Agreement during the pendency of any dispute.
17. In the event that either party is prevented or delayed in the performance of any of its obligations under this Agreement by reason beyond its reasonable control (a "Force Majeure Event"), then that party's performance shall be excused during the Force Majeure Event. Force Majeure Events shall include, without limitation, war; civil disturbance; flood, earthquake or other Act of God; storm, earthquake or other condition which necessitates the mobilization of the personnel of a party or its contractors to restore utility service to customers; laws, regulations, rules or orders of any governmental agency; sabotage; strikes or similar labor disputes involving personnel of a party, its contractors or a third party; or any failure or delay in the performance by the other party, or a third party who is not an employee, agent or contractor of the party claiming a Force Majeure Event, in connection with the Work or this Agreement. Upon removal or termination of the Force Majeure Event, the party claiming a Force Majeure Event shall promptly perform the affected obligations in an orderly and expedited manner under this Agreement or procure a substitute for such obligation. The parties shall use all commercially reasonable efforts to eliminate or minimize any delay caused by a Force Majeure Event.
18. This Agreement is subject to the General Rules and Provisions set forth in Tariff Schedule 80 of the Company's electric Tariff G and to Schedule 74 of such Tariff as approved by the Washington Utilities and Transportation Commission and in effect as of the date of this Agreement.

19. Any notice under this Agreement shall be in writing and shall be faxed (with a copy followed by mail or hand delivery), delivered in person, or mailed, properly addressed and stamped with the required postage, to the intended recipient as follows:

If to the Government Entity:

City of Kenmore
P.O. Box 82607
Kenmore, WA. 98028-0607
Attn: Frederick Stouder
Fax: 425-481-3236

If to the Company:

Puget Sound Energy, Inc.
P.O. Box 90868
Bellevue WA. 98009-0868
Attn: Rebecca A. Nicholas
Fax: 425-462-3355

Either party may change its address specified in this paragraph by giving the other party notice of such change in accordance with this paragraph.

20. This Agreement shall in all respects be interpreted, construed and enforced in accordance with the laws of the State of Washington (without reference to rules governing conflict of laws), except to the extent such laws may be preempted by the laws of the United States of America.
21. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and all other agreements and understandings of the Parties, whether written or oral, with respect to the subject matter of this Agreement are hereby superseded in their entireties.
22. This Agreement shall be binding upon and inure to the benefit of the respective successors, assigns, purchasers, and transferees of the parties, including but not limited to, any entity to which the rights or obligations of a party are assigned, delegated, or transferred in any corporate reorganization, change of organization, or purchase or transfer of assets by or to another corporation, partnership, association, or other business organization or division thereof.

Government Entity:

Company:

CITY OF KENMORE

PUGET SOUND ENERGY, INC.

BY _____

BY _____

ITS _____

ITS _____

Date Signed _____

Date Signed _____

Approved as to form:

Design Agreement, Attachment "A" to Schedule 74, Page 7
61st Ave NE & NE 181st St. (Signal)

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Discussion of 61 st Avenue NE and NE 181 st Street Signal Improvement Project scope of work and right-of-way requirements.			June 27, 2011
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Engineering	Ron Loewen	Ron Loewen	425 398 8900
COST OF PROPOSAL: <u>Staff Cost:</u> Preparing agenda bill 5hours Administering design agreement 240 hours <u>Contract Services:</u> Design, Right of Way, Construction: \$2,771,900		ACCOUNT NUMBER: 09 00 7097 61 st Ave/NE 181 st Signal	
AMOUNT BUDGETED: Adopted 2011-12 Budget \$2,048,550 Approved 2011-16 CIP \$3,338,300		NAME AND FUND #: Arterial Street Fund No. 09	
ATTACHMENT(S) TO AGENDA PACKET ITEM: • Table: 61st Avenue and NE 181st Street Signal Project Options • September 27, 2010 Agenda Bill • July 26, 2010 Agenda Bill • February 8, 2010 Agenda Bill			
SUMMARY STATEMENT: The City Council approved this project on September 27, 2010 with the acquisition of additional right of way and modified the budget as part of the 2011-16 Capital Improvement Program (CIP) adoption in April. During the CIP adoption City staff suggested the project scope be discussed in further detail as the cost estimate had increased from \$2,048,550 to \$3,338,300. Staff is recommending Alternative 4 as described below which is estimated to cost \$2,771,900. The funds are available from Real Estate Excise Tax (REET) in the amount of \$1,675,645, Traffic Impact Fees in the amount of \$446,255, and a Federal Grant in the amount of \$650,000 (not yet received). The adopted 2011-2012 budget appropriated \$2,048,550 for this project, therefore Council action to amend and increase the budget in the amount of \$723,350 would be required. The additional REET funds would be borrowed from existing cash set aside for the sidewalk program which would result in the sidewalk program being delayed for at least two years. Where funds are noted as available, this assumes that the revenue as budgeted in the adopted 2011-2012 biennial budget will be realized. The following is a discussion of the project scope and cost estimates. BACKGROUND The proposed SR 522 Phase I Stage 2 Corridor Improvement Project, from 57th Avenue NE to 65th Avenue NE (the last section) was divided into segments in February 2010, to allow more favorable			

VD. Approve Project Design Contract No. 11-C955 with Puget Sound Energy for Undergrounding Aerial Facilities as Part of the 61st Avenue NE and NE 181st Street Signal

funding proposals. In July of 2010 the Council received word that Senator Murray intended to sponsor the direct allocation of \$600,000 to the SR 522 project. On July 26th the Council authorized the design of the signal improvements at NE 181st Street and 61st Avenue NE with the provision that right-of-way acquisition and improvements be consistent with the overall SR 522 project. The City has also now learned that a Federal Grant allocation has been made by the Washington State Legislature in the amount of \$650,000.

DISCUSSION

During the City Council discussion authorizing the project in September, the City Council decided to pursue the additional right of way. During revisions to the 2011-16 CIP, concern arose over the increase in project cost estimates from the approved \$2,058,550 to \$3,338,300. Since then more detailed cost estimates for the retaining wall and updated right of way estimates have been received. This has resulted in reductions to the 2011-16 CIP estimate, however the project cost estimate remains higher than previously approved. Additionally an estimate for undergrounding aerial facilities has been provided for consideration. The alternatives presented in this agenda bill provide the City Council with 4 distinct project scopes of work with increasing right-of-way acquisition and improvements.

ALTERNATIVES

City staff have prepared 4 alternative project scopes of works and cost estimates for discussion. These are very similar to the project alternatives discussed in September of last year. Several of the alternatives have the same right-of-way acquisition but all vary the extent of construction.

Alternative 1 - This alternative would construct only the traffic signal at 61st Avenue NE and NE 181st Street and acquire right of way at the intersection for future improvements. Under this alternative, right of way would be acquired from 4 parcels and construction would only include the traffic signal and ADA ramps. Total cost is estimated at \$975,400 and would be funded with the Federal Grant of \$650,000 and Traffic Impact Fee funds of \$325,400 which are available. The cost of this Alternative is less than the adopted 2011-2012 biennial budgeted amount of \$2,048,550 and does not require Council action to amend or increase the project budget.

In summary, **Alternative 1** is a minimal project and would provide a traffic signal but no left turn pockets. This would improve circulation and use of NE 181st Street and possibly allow the closure of the 60th Avenue NE left turn from SR 522.

Alternative 2 – This alternative would construct the traffic signal and left turn pockets at NE 181st Street and some curbs along 61st Avenue NE. Aerial facilities would remain. Under this alternative right of way would be acquired from 4 parcels and construction would include the traffic signal, storm drainage, sidewalks, landscaping, ADA ramps, and pavement. Total cost is estimated at \$1,675,900 and would be funded with the Federal Grant of \$650,000, Traffic Impact Fee funds of \$446,255, and \$579,645 of REET of which \$200,000 would be “borrowed” from the sidewalk program funds set aside and which are available. The cost of this Alternative is less than the adopted 2011-2012 biennial budgeted amount of \$2,048,550 and does not require Council action to amend or increase the project budget. This estimate is higher than the September Alternative 2 estimate due to revised right of way estimates and updated costs for the retaining wall.

In summary, **Alternative 2** matches the City Council’s stated project scope. Circulation along NE 181st Street would be improved and the left turn at 60th Avenue NE on SR 522 could be eliminated.

Alternative 3 – This alternative would construct the traffic signal and left turn pockets at NE 181st Street and some curbs along 61st Avenue NE. Aerial facilities would remain.

Under this alternative right of way would be acquired from 8 parcels and construction would include the traffic signal, storm drainage, sidewalks, landscaping, ADA ramps and pavement. Total cost is estimated at \$2,471,900 and would be funded with the Federal Grant of \$650,000, Traffic Impact Fee funds of \$446,255, and \$1,375,645 of REET of which \$650,000 would be "borrowed" from the sidewalk program funds set aside and which are available. The cost of this Alternative is \$423,350 greater than the adopted 2011-2012 biennial budgeted amount of \$2,048,550 and would require Council action to amend and increase the project budget. This alternative was chosen by the City Council in September. The additional costs, (the September cost estimate was \$2,058,550), are the result of updated right of way and retaining wall estimates. The additional right of way acquisition would secure several significant pieces of right of way for a portion of the last segment of the SR 522 project.

In summary, **Alternative 3** matches the City Council's stated project scope and direction at the September meeting of including right of way for future SR 522 projects.

Alternative 4 - This alternative would construct the traffic signal and left turn pockets at NE 181st Street and some curbs along 61st Avenue NE and underground aerial facilities. Under this alternative right of way would be acquired from 8 parcels and construction would include the traffic signal, storm drainage, sidewalks, landscaping, ADA ramps, undergrounding of aerial facilities and pavement. Total cost is estimated at \$2,771,900 and would be funded with the Federal Grant of \$650,000, Traffic Impact Fee funds of \$446,255, and \$1,675,645 of REET of which \$950,000 would be "borrowed" from the sidewalk program funds set aside and which are available. The cost of this Alternative is \$723,350 greater than the adopted 2011-2012 biennial budgeted amount of \$2,048,550 and would require Council action to amend and increase the project budget. This alternative is new as previous alternatives did not consider undergrounding aerial facilities.

In summary, **Alternative 4** matches the City Council's stated project scope and direction at the September meeting of including right of way for future SR 522 projects. In addition it provides undergrounding of aerial facilities at the intersection.

RECOMMENDATION

City staff recommends **Alternative 4** which is consistent with the previous City Council direction and provides for undergrounding at the intersection. Undergrounding would allow for the removal of wood poles and aerial facilities now rather than waiting until a future SR 522 project.

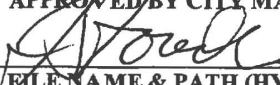
The cost of this Alternative is \$723,350 greater than the adopted 2011-2012 biennial budgeted amount of \$2,048,550 and will require Council approval to amend and increase the project budget from \$2,058,000 to \$2,771,900. The project would be funded with the Federal Grant of \$650,000, Traffic Impact Fee funds of \$446,255, and \$1,675,645 of REET of which \$950,000 would be "borrowed" from the sidewalk program funds set aside and which are available. 2011-16 CIP provides adequate financial resources for the project by delaying other SR 522 project segments.

CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION:

Council set a priority for SR 522 in 2008 and reaffirmed in 2009 with council action on December 1, 2008 - Agenda title: Consider Projects for Federal Stimulus Package and Potential Action for Authorization to Design and Right of way Acquisition for SR 522 Phase I Stage 2.

City Council action on July 26th, authorizing the design and right of way acquisition for the 61st Avenue NE and NE 181st Street signal.

City Council action on September 27, 2010 selecting an alternative authorizing the design and right of way acquisition for the 61st Avenue and NE 181st signal project.

RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Authorize City staff to proceed with 61 st Avenue NE and NE 181 st Street Signal Improvement Project scope of work and right-of-way acquisition as described in Alternative 4.		
REVIEWED BY FINANCE DIRECTOR: 	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER: 
TODAY'S DATE: June 8, 2011	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK): S:\0159 61st Ave NE and NE 181st St Traffic Signal\Council\110620_agenda_bill.doc

City of Kenmore

Washington

SR 522 Phase I Stage 2

61st Avenue NE and NE 181st Street Signal Project Options

Alternative	Description	City Funds	Grant Funds	Total
Alternative 1	Signal only	\$ 325,400	\$ 650,000	\$ 975,400
Alternative 2	Signal and widening	\$ 1,025,900	\$ 650,000	\$ 1,675,900
Alternative 3	Signal, widening and additional right of way	\$ 1,821,900	\$ 650,000	\$ 2,471,900
Alternative 4	Signal, widening, additional right of way and undergrounding	\$ 2,121,900	\$ 650,000	\$ 2,771,900
Approved CIP	Signal, widening and additional right of way	\$ 2,738,300	\$ 600,000	\$ 3,338,300

June 7, 2011

S:\0159 61st Ave NE and NE 181st St Traffic Signal\Council\110620_Table Project Options.docx

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
61 st Avenue NE and NE 181 st Street Signal Improvements discussion of project scope of work and right-of-way requirements.			September 27, 2010
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Engineering	Ron Loewen	Ron Loewen	425 398 8900
COST OF PROPOSAL: <u>Staff Cost:</u> Preparing agenda bill 5hours Administering design agreement 240 hours <u>Contract Services:</u> Design: \$ 81,497 Right-of-way: \$1,118,200 Construction: \$ 858,853 Total: \$2,058,550		ACCOUNT NUMBER: 09 00 7088 SR 522 Phase I Stage 2 Design/Adm	
AMOUNT BUDGETED: Current 2010 budget only includes funds for Design of SR 522 Phase I Stage 2 (last section) improvements. 2011-2016 Transportation Improvement Program (TIP) includes: 61st Avenue Traffic Signal - \$1,200,000 (assumes unsecured grants totaling \$300,000) 61st Avenue Improvements - \$3,897,900 (assumes unsecured grants totaling \$2,393,000) The following City funds have been allocated to the SR 522 projects in the 2011-2016 Transportation Improvement Program (TIP) \$ 8,781,000. Of these funds only \$589,000 have been obligated.		NAME AND FUND #: Arterial Street Fund No. 09	
ATTACHMENT(S) TO AGENDA-PACKET ITEM: • Table: 61st Avenue NE Project Options • 4 Sketches of alternative project scopes of work • 4 Project cost estimates consistent with sketches • July 26, 2010 Agenda Bill • February 8, 2010 Agenda Bill			
SUMMARY STATEMENT: The City Council discussed this project on July 26th. It is being brought back for further clarification and consideration of additional alternatives. BACKGROUND The proposed SR 522 Phase I Stage 2 Corridor Improvement Project, from 57 th Avenue NE to 65 th Avenue NE (the last section) was divided into segments to allow more favorable funding proposals. In July the Council received word that Senator Murray intended to sponsor the direct allocation of \$600,000 to the SR 522 project. On July 26 th the Council authorized the design of the signal improvements at NE 181 st Street and 61 st Avenue NE with the provision that right-of-way acquisition and improvements be consistent with			

VD. Approve Project Design Contract No. 11-C955 with Puget Sound Energy for Undergrounding Aerial Facilities as Part of the 61st Avenue NE and NE 181st Street Signal

the overall SR 522 project and to avoid dealing with property owners a second time.

ALTERNATIVES

City staff have prepared 4 alternative project scopes of works and cost estimates to meet the City Council's objectives. Several of the alternatives have the same right-of-way acquisition but all vary the extent of construction, see attached table, sketches, and cost estimates.

Alternative 1 - This alternative would construct only the traffic signal at 61st Avenue NE and NE 181st Street and acquire right-of-way for future improvements. Under this alternative, right-of-way would be acquired from 3 parcels and construction would only include the traffic signal and ADA ramps. Total cost is estimated at \$855,375. This estimate is higher than the original proposal of \$600,000 due to the acquisition of additional right-of-way.

Alternative 2 - This alternative would construct the traffic signal and left turn pockets at NE 181st Street and some curbs along 61st Avenue NE. Aerial facilities would remain; however, conduit and vaults would be installed for undergrounding as part of a later project. Under this alternative right-of-way would be acquired from 3 parcels and construction would include the traffic signal, storm drainage, sidewalks, landscaping, ADA ramps, and pavement. Total cost is estimated at \$1,262,850. A variation on this alternative would be to acquire right-of-way from three additional parcels (Jack in the Box, Uplake Town Center, and Burke-Gilman Trail). This would increase the cost estimate to \$2,058,550.

Alternative 3 - This alternative would construct the traffic signal and left turn pockets at NE 181st Street and the curbs on 61st Avenue NE consistent with the future widening. This would likely allow a dual southbound right turn lane onto SR 522. One of the SR 522 signal poles would need to be relocated.

Aerial facilities would remain; however, conduit and vaults would be installed for undergrounding as part of a later project. Under this alternative right-of-way would be acquired from 5 parcels and construction would include the traffic signal, storm drainage, sidewalks, landscaping, ADA ramps, and pavement. Total cost is estimated at \$2,880,224.

Alternative 4 - This alternative would construct the traffic signal and left turn pockets at NE 181st Street, the curbs on 61st Avenue NE between SR 522 and NE 181st Street consistent with the future widening, and the roadway improvements south of SR 522. This would allow a dual southbound right turn lane onto SR 522. All of the signal poles on SR 522 would need to be relocated. Aerial facilities would remain; however, conduit and vaults would be installed for undergrounding as part of a later project. Under this alternative right-of-way would be acquired from 6 parcels and construction would include traffic signals, storm drainage, sidewalks, landscaping, ADA ramps, and pavement. Total cost is estimated at \$5,097,900.

DISCUSSION

During the City Council discussion authorizing the project there was some confusion over the right-of-way to be acquired and whether the curbs to be installed would need to be removed as part of future construction. The alternatives presented in this agenda bill provide the City Council with 4 distinct project scopes of work with increasing right-of-way acquisition and improvements.

Alternative 1 is a minimal project and would provide a traffic signal but no left turn pockets. This would improve circulation and use of NE 181st Street and possibly allow the closure of the 60th Avenue NE left turn from SR 522.

Alternative 2 matches the City Council's stated project scope. Circulation along NE 181st Street would be improved and the left turn at 60th Avenue NE on SR 522 could be eliminated. This project would require \$662,850 of City funds which is \$362,850 more than programmed in the TIP. These additional funds are available by reprogramming funds from one of the other SR 522 segments. A variation on this alternative is to acquire additional right-of-way for the remainder of the 61st Avenue NE improvements. This would make the 61st Avenue NE improvements (Alternative 4) "shovel

ready" if future funding becomes available. This variation on Alternative 2 would raise the total project cost estimate to \$2,058,550 and would require \$1,458,550 of City funds.

Alternative 3 expands the City Council's direction to include improvements on 61st Avenue NE. Circulation along NE 181st Street would be improved and the left turn at 60th Avenue NE on SR 522 could be eliminated. The improvements would also provide improved capacity at the SR 522 intersection especially in the southbound direction and complete all of the improvements north of SR 522 along 61st Avenue NE. This project would require \$2,280,224 of City funds to be completed. These additional funds are available by reprogramming funds from one of the other SR 522 segments but increase the chance that additional City funds will be required in later years to provide grant matching funds.

Alternative 4 expands the City Council's direction to include improvements on 61st Avenue NE. Circulation along NE 181st Street would be improved and the left turn at 60th Avenue NE on SR 522 could be eliminated. The improvements would also provide improved capacity at the SR 522 intersection especially in the northbound and southbound direction, complete all of the improvements north and south of SR 522 along 61st Avenue NE and improve vehicle safety at the SR 522 intersection. This project would require \$4,497,900 of City funds to be completed. These additional funds are available by reprogramming funds from other SR 522 segments but increase the chance that additional City funds will be required in later years to provide grant matching funds. This project was recently submitted to the Transportation Improvement Board (TIB) as part of the Arterial Improvement program. TIB Grant funds totaling \$2,693,000 were requested. If these funds become available the required City funding would be \$1,804,900.

RECOMMENDATION

City staff recommends Alternative 2 with the variation of acquiring additional right-of-way and raising the project budget to \$2,058,550 be pursued. This will allow the City to have a "shovel ready" project if funds become available.

CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION:

Council set a priority for SR 522 in 2008 and reaffirmed in 2009 with council action on December 1, 2008- Agenda title: consider Projects for Federal Stimulus Package and Potential Action for Authorization to Design and Right-of-way Acquisition for SR 522 Phase I Stage 2. Council action on July 26th, authorizing the design and right-of-way acquisition for the 61st Avenue NE and NE 181st Street signal.

RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION:

Amend the budget for the 61st Avenue NE and NE 181st Street signal project from \$1,200,000 to \$2,058,550 and authorize City staff to proceed with the design and acquisition of right of way from 6 parcels along 61st Avenue NE.

REVIEWED BY FINANCE DIRECTOR:	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER: 
TODAY'S DATE: Sept 14, 2010	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK): S:\0050.50 SR 522 Phase 1, Stage 2\Council Items\100927_Project Scope\100927_agenda_bill.doc

City of Kenmore

Washington

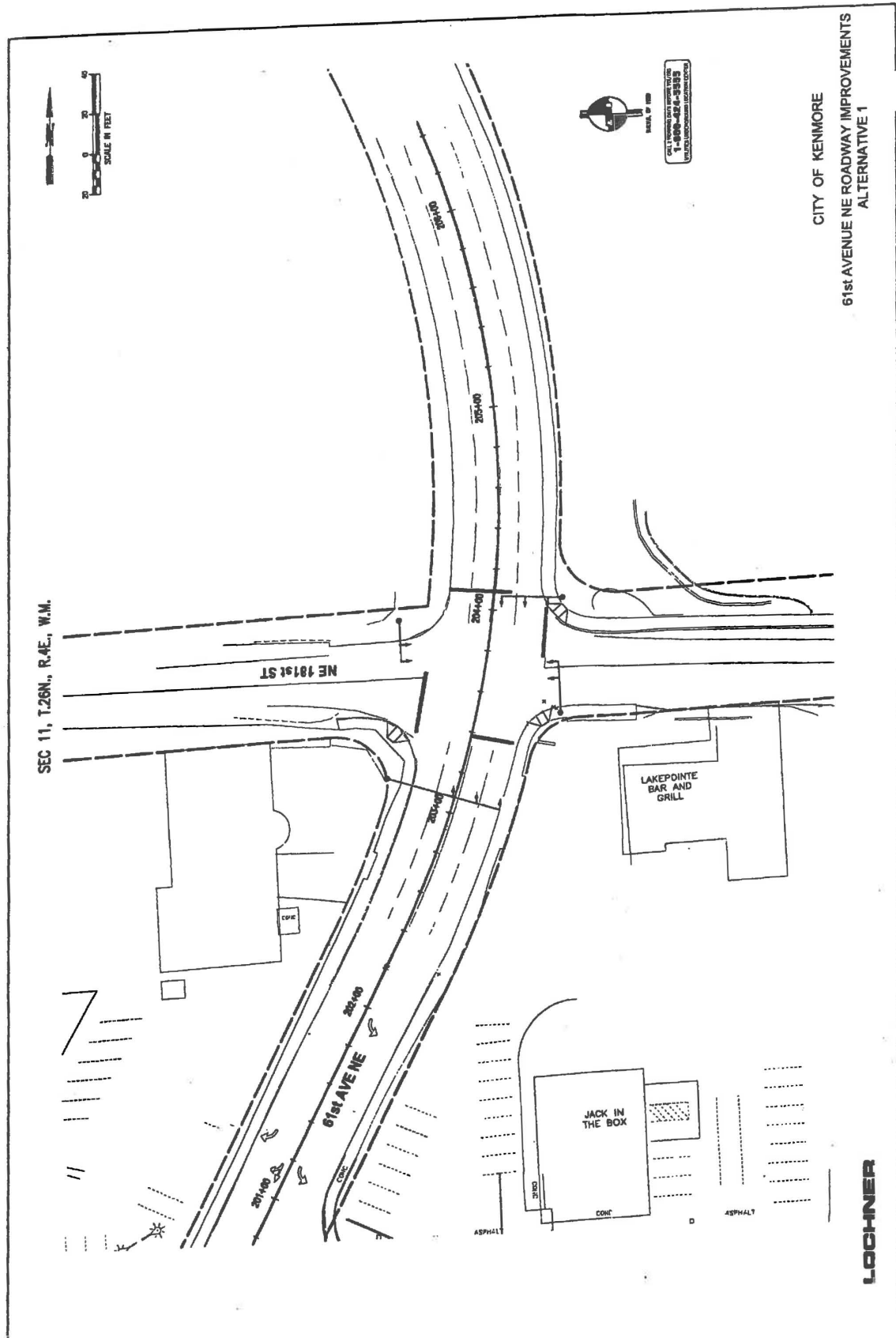
SR 522 Phase I Stage 2

61st Avenue NE Project Options

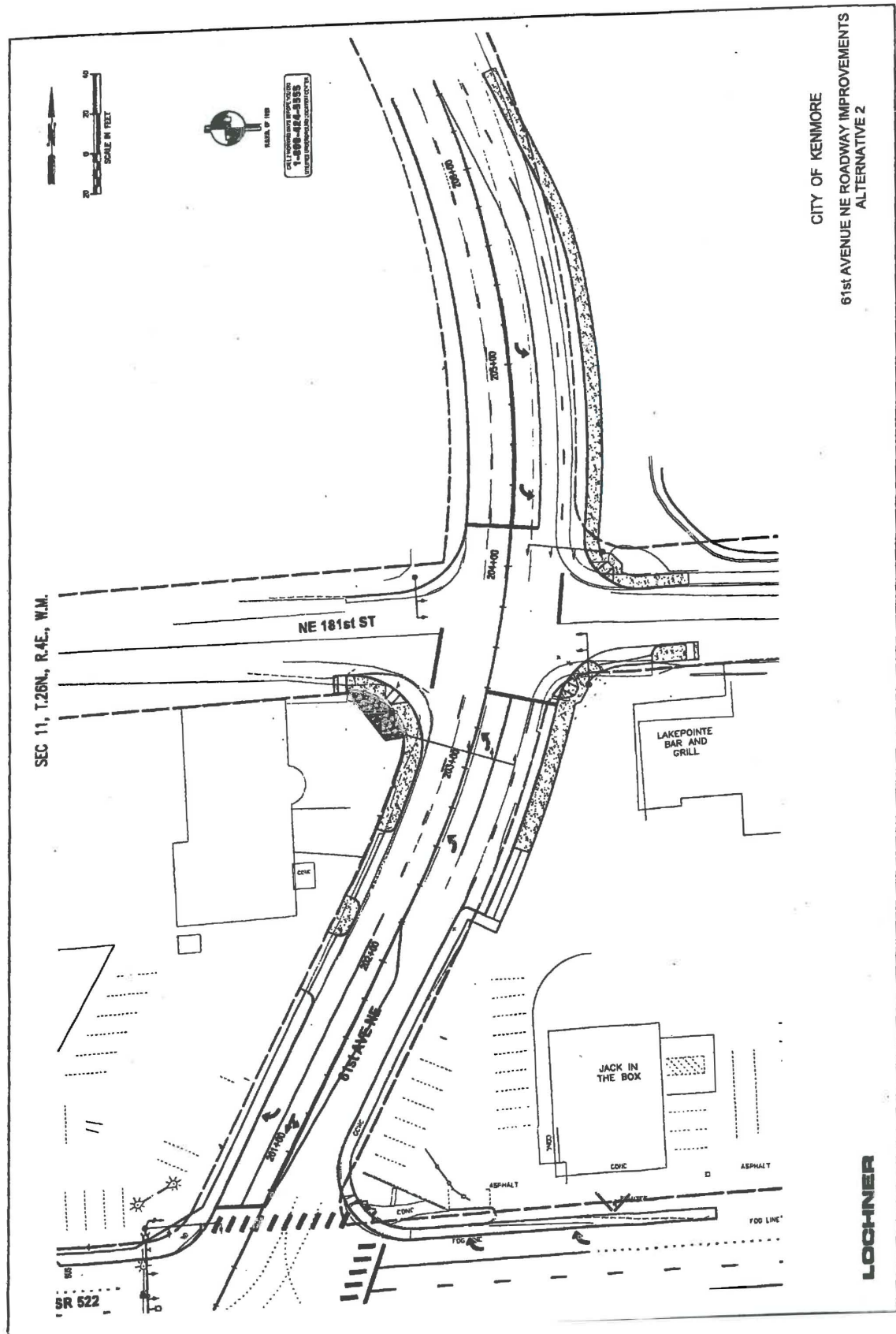
Alternative	City Funds	Grant Funds	Total
Alternative 1	\$ 255,375	\$ 600,000	\$ 855,375
Alternative 2	\$ 662,850	\$ 600,000	\$1,262,850
Alternative 2 Variation	\$1,458,550	\$ 600,000	\$2,058,550
Alternative 3	\$2,280,224	\$ 600,000	\$2,880,224
Alternative 4	\$4,697,900	\$ 600,000	\$5,097,900
Alternative 4 with TIB Grant	\$1,804,900	\$3,293,000	\$5,097,900

September 13, 2010

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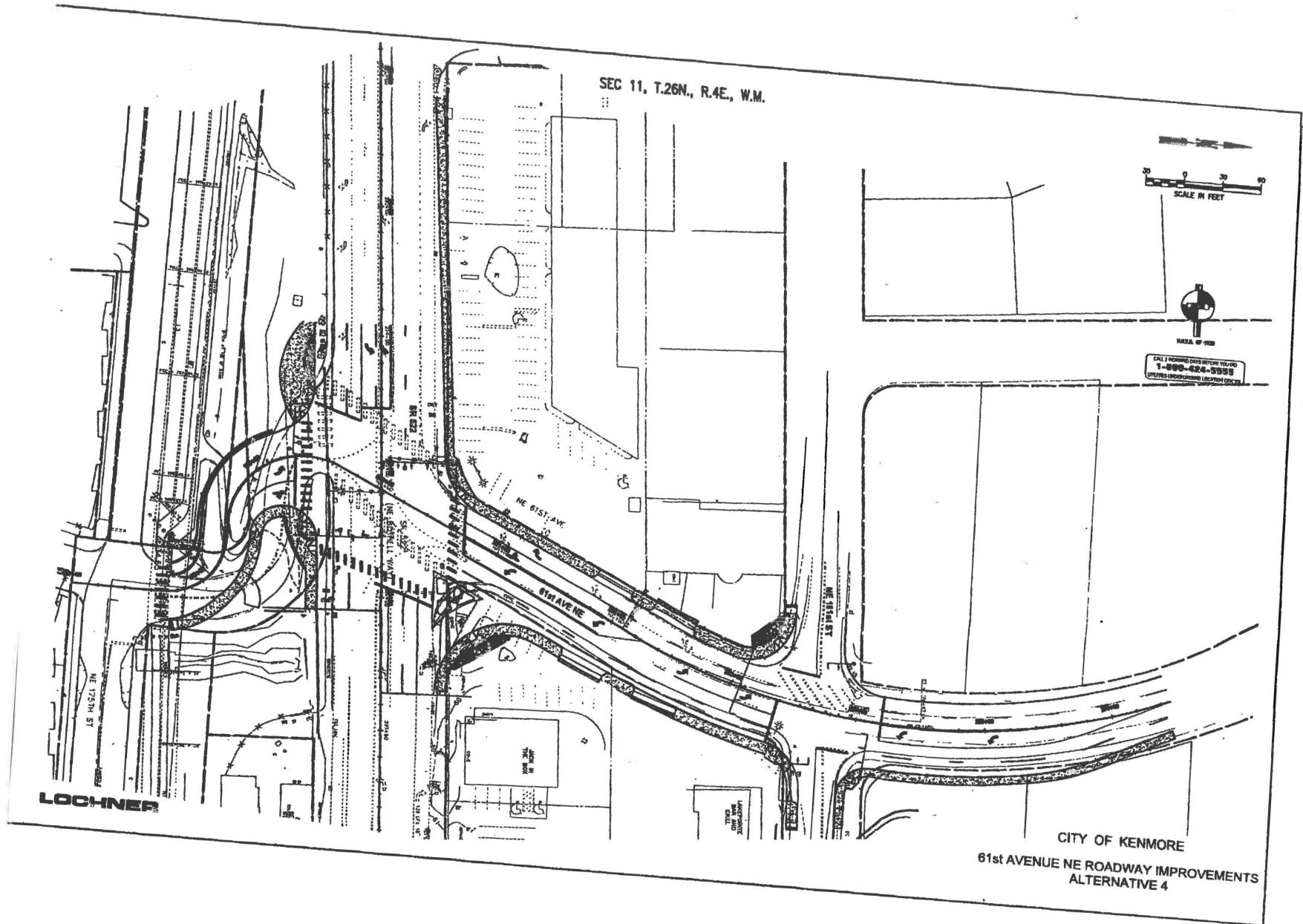


VD. Approve Project Design Contract No. 11-C955 with Puget Sound Energy for Undergrounding Aerial Facilities as Part of the 61st Avenue NE and NE 181st Street Signal



VD. Approve Project Design Contract No. 11-C955 with Puget Sound Energy for Undergrounding Aerial Facilities as Part of the 61st Avenue NE and NE 181st Street Signal

VD. Approve Project Design Contract No. 11-C955 with Puget Sound Energy for
Undergrounding Aerial Facilities as Part of the 61st Avenue NE and NE 181st Street Signal



61st Ave NE - Cost Estimate (Alternative 1 Traffic Signal Only @ NE 181st Street)

Item	Section	Description	Quantity	Unit	Unit Cost	Cost
1	1-05	Surveying	1	LS	\$10,000.00	\$10,000.00
2	1-07	Spill Prevention Plan (SPCC)	1	LS	\$1,000.00	\$1,000.00
3	1-07	Potholing	1	LS	\$0.00	\$0.00
4	1-09	Mobilization	1	LS	\$26,000.00	\$26,000.00
5	1-10	Temporary Traffic Control	1	LS	\$10,000.00	\$10,000.00
6	1-10	Traffic Control Labor	750	HR	\$45.00	\$33,750.00
7	1-10	Traffic Control Supervisor	120	HR	\$50.00	\$6,000.00
8	1-10	Construction Signs	1	LS	\$5,000.00	\$5,000.00
9	2-01	Clearing and Grubbing	1	LS	\$2,500.00	\$2,500.00
10	2-02	Removal of Drainage Structures	1	LS	\$0.00	\$0.00
11	2-02	Removal of Structures & Obstructions	1	LS	\$0.00	\$0.00
12	2-02	Removing Asphalt Concrete Pavement	0	SY	\$8.00	\$0.00
13	2-02	Removing Pavement Markings	1	LS	\$1,000.00	\$1,000.00
14	2-03	Roadway Excavation (Incl. Haul)	0	CY	\$20.00	\$0.00
15	2-03	Unsuitable Foundation Excavation (Incl. Haul)	0	CY	\$30.00	\$0.00
16	2-03	Gravel Borrow, including Haul	0	TN	\$18.00	\$0.00
17	2-03	Embankment (Method C Compaction)	0	CY	\$2.00	\$0.00
18	2-10	Ditch Excavation including Haul	0	CY	\$30.00	\$0.00
19	2-11	Trimming & Clean Up	1	LS	\$1,500.00	\$1,500.00
20	4-04	Crushed Surfacing Top Course	0	TN	\$30.00	\$0.00
21	4-04	Crushed Surfacing Base Course	0	TN	\$28.00	\$0.00
22	5-04	HMA Class 1/2" PG 64-22	0	TN	\$85.00	\$0.00
23	5-04	HMA for Overlay Class 1/2" PG 64-22	0	TN	\$105.00	\$0.00
24	7-04	Storm Sewer Pipe, 12 In. Diam	0	LF	\$55.00	\$0.00
25	7-04	Storm Sewer Pipe, 18 In. Diam	0	LF	\$65.00	\$0.00
26	7-05	Adjust Catch Basin to Finished Grade	0	EA	\$400.00	\$0.00
27	7-05	Catch Basin Type 1	0	EA	\$1,000.00	\$0.00
28	7-05	Catch Basin Type 2 - 48"	0	EA	\$4,000.00	\$0.00
29	7-05	Grate Inlet	0	EA	\$1,000.00	\$0.00
30	7-05	Water Quality Vault W/splitter	0	EA	\$95,000.00	\$0.00
31	7-05	Shoring or Extra Excavation	0	LF	\$1.50	\$0.00
32	7-05	Adjust Utility to Finished Grade	0	EA	\$250.00	\$0.00
33	7-08	Bank Run Gravel for Trench Backfill	0	CY	\$35.00	\$0.00
34	8-01	Erosion Control	1	LS	\$2,500.00	\$2,500.00
35	8-01	Water Pollution Prevention Plan	1	LS	\$1,000.00	\$1,000.00
36	8-01	Temporary Reinforced Silt Fence	600	LF	\$5.00	\$3,000.00
37	8-02	Property Restoration	0	LS	\$25,000.00	\$0.00
38	8-02	Topsoil type A	50	CY	\$40.00	\$2,000.00
39	8-02	Bark Mulch	0	CY	\$18.00	\$0.00

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VD. Approve Project Design Contract No. 11-C955 with Puget Sound Energy for
Undergrounding Aerial Facilities as Part of the 61st Avenue NE and NE 181st Street Signal

40	8-02	Landscaping	0	LS	\$50,000.00	\$0.00
41	8-02	Seeding and Mulching.	1	LS	\$2,500.00	\$2,500.00
42	8-03	Irrigation System	0	LS	\$25,000.00	\$0.00
43	8-04	Cement Concrete Curb and Gutter	0	LF	\$20.00	\$0.00
44	8-06	Cement Concrete Driveway	0	SY	\$68.00	\$0.00
45	8-13	Monument Case and Cover	0	EA	\$350.00	\$0.00
46	8-14	Cement Concrete Sidewalk	0	SY	\$42.00	\$0.00
47	8-14	Mail Box Relocation	0	EA	\$400.00	\$0.00
48	8-14	Bollards	0	EA	\$1,000.00	\$0.00
49	8-14	Cement Conc. Sidewalk Ramps	0	EA	\$1,400.00	\$0.00
50	8-20	Illumination System	0	LS	\$75,000.00	\$0.00
51	8-20	Signal System @ 61st Ave NE & NE 181st ST	1	LS	\$225,000.00	\$225,000.00
52	8-20	Traffic Signal Interconnect	1	LS	\$15,000.00	\$15,000.00
53	8-21	Permanent Signing	1	LS	\$5,000.00	\$5,000.00
54	8-22	Pavement Striping	1	LS	\$2,500.00	\$2,500.00
55	8-24	STRUCTURAL EARTH WALL	0	SF	\$54.00	\$0.00
Total Construction Contract Cost						\$365,250.00
Contingency (25%)						\$88,812.50
Right of Way						\$322,500.00
Design Engineering Estimate						\$46,182.50
Construction Engineering Estimate						\$42,630.00
Total Project Cost						\$855,375.00

* Estimate does not include any environmental mitigation.

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VD. Approve Project Design Contract No. 11-C955 with Puget Sound Energy for Undergrounding Aerial Facilities as Part of the 61st Avenue NE and NE 181st Street Signal

61st Ave NE - Cost Estimate (Alternative 2-Traffic Signal @ NE 181st St & Left turn lanes)

Item	Section	Description	Quantity	Unit	Unit Cost	Cost
1	1-05	Surveying	1	LS	\$18,000.00	\$18,000.00
2	1-07	Spill Prevention Plan (SPCC)	1	LS	\$2,000.00	\$2,000.00
3	1-07	Potholing	1	LS	\$3,500.00	\$3,500.00
4	1-09	Mobilization	1	LS	\$40,000.00	\$40,000.00
5	1-10	Temporary Traffic Control	1	LS	\$15,000.00	\$15,000.00
6	1-10	Traffic Control Labor	1500	HR	\$45.00	\$67,500.00
7	1-10	Traffic Control Supervisor	220	HR	\$50.00	\$11,000.00
8	1-10	Construction Signs	1	LS	\$5,000.00	\$5,000.00
9	2-01	Clearing and Grubbing	1	LS	\$5,000.00	\$5,000.00
10	2-02	Removal of Drainage Structures	1	LS	\$5,000.00	\$5,000.00
11	2-02	Removal of Structures & Obstructions	1	LS	\$5,000.00	\$5,000.00
12	2-02	Removing Asphalt Concrete Pavement	100	SY	\$8.00	\$800.00
13	2-02	Removing Pavement Markings	1	LS	\$1,000.00	\$1,000.00
14	2-03	Roadway Excavation (Incl. Haul)	200	CY	\$20.00	\$4,000.00
15	2-03	Unsuitable Foundation Excavation (Incl. Haul)	50	CY	\$30.00	\$1,500.00
16	2-03	Gravel Borrow, Including Haul	500	TN	\$18.00	\$9,000.00
17	2-03	Embankment (Method C Compaction)	500	CY	\$2.00	\$1,000.00
18	2-10	Ditch Excavation Including Haul	40	CY	\$30.00	\$1,200.00
19	2-11	Trimming & Clean Up	1	LS	\$5,000.00	\$5,000.00
20	4-04	Crushed Surfacing Top Course	50	TN	\$30.00	\$1,500.00
21	4-04	Crushed Surfacing Base Course	200	TN	\$28.00	\$5,600.00
22	5-04	HMA Class 1/2" PG 64-22	450	TN	\$85.00	\$38,250.00
23	5-04	HMA for Overlay Class 1/2" PG 64-22	30	TN	\$105.00	\$3,150.00
24	7-04	Storm Sewer Pipe, 12 In. Diam	300	LF	\$55.00	\$16,500.00
25	7-04	Storm Sewer Pipe, 18 In. Diam	120	LF	\$65.00	\$7,800.00
26	7-05	Adjust Catch Basin to Finished Grade	2	EA	\$400.00	\$800.00
27	7-05	Catch Basin Type 1 (with cartridges)	4	EA	\$3,500.00	\$14,000.00
28	7-05	Catch Basin Type 2 - 48"	0	EA	\$4,000.00	\$0.00
29	7-05	Grate Inlet	2	EA	\$1,000.00	\$2,000.00
30	7-05	Water Quality Vault W/splitter	1	EA	\$0.00	\$0.00
31	7-05	Shoring or Extra Excavation	500	LF	\$1.50	\$750.00
32	7-05	Adjust Utility to Finished Grade	10	EA	\$250.00	\$2,500.00
33	7-08	Bank Run Gravel for Trench Backfill	140	CY	\$35.00	\$4,900.00
34	8-01	Erosion Control	1	LS	\$5,000.00	\$5,000.00
35	8-01	Water Pollution Prevention Plan	1	LS	\$1,000.00	\$1,000.00
36	8-01	Temporary Reinforced Silt Fence	800	LF	\$5.00	\$4,000.00
37	8-02	Property Restoration	1	LS	\$5,000.00	\$5,000.00
38	8-02	Topsoil type A	150	CY	\$40.00	\$6,000.00
39	8-02	Bark Mulch	100	CY	\$18.00	\$1,800.00

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 Jim Jones

VD. Approve Project Design Contract No. 11-C955 with Puget Sound Energy for
 Undergrounding Aerial Facilities as Part of the 61st Avenue NE and NE 181st Street Signal

40	8-02	Landscaping	1	LS	\$7,500.00	\$7,500.00
41	8-02	Plant Establishment	1	year	\$0.00	\$0.00
42	8-03	Irrigation System	1	LS	\$0.00	\$0.00
43	8-04	Cement Concrete Curb and Gutter	600	LF	\$20.00	\$12,000.00
44	8-06	Cement Concrete Driveway	75	SY	\$58.00	\$4,350.00
45	8-13	Monument Case and Cover	2	EA	\$350.00	\$700.00
46	8-14	Cement Concrete Sidewalk	150	SY	\$42.00	\$6,300.00
47	8-14	Mail Box Relocation	10	EA	\$400.00	\$4,000.00
48	8-14	Bollards	0	EA	\$1,000.00	\$0.00
49	8-14	Cement Conc. Sidewalk Ramps	4	EA	\$1,500.00	\$6,000.00
50	8-20	Illumination System	0	LS	\$40,000.00	\$0.00
51	8-20	Partial Signal System @ SR 522 & 61st Ave NE	0	LS	\$65,000.00	\$0.00
52	8-20	Signal System @ 61st Ave NE & NE 181st ST	1	LS	\$225,000.00	\$225,000.00
53	8-20	Traffic Signal Interconnect	1	LS	\$20,000.00	\$20,000.00
54	8-21	Permanent Signing	1	LS	\$5,000.00	\$5,000.00
55	8-22	Pavement Striping	1	LS	\$5,000.00	\$5,000.00
56	8-24	STRUCTURAL EARTH WALL	0	SF	\$54.00	\$0.00
57		Water	0	MGAL	\$50.00	\$0.00
58		Testing	1	LS	\$5,000.00	\$5,000.00
59		Utilities	1	LS	\$5,000.00	\$5,000.00
Total Construction Contract Cost						\$626,900.00
Contingency (25%)						\$156,725.00
Right of Way						\$322,500.00
Design Engineering Estimate						\$81,497.00
Construction Engineering Estimate						\$75,228.00
Total Project Cost						\$1,262,850.00

* Estimate does not include any environmental mitigation.

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VD. Approve Project Design Contract No. 11-C955 with Puget Sound Energy for Undergrounding Aerial Facilities as Part of the 61st Avenue NE and NE 181st Street Signal

61st Ave NE - Cost Estimate (Alternative 3-Signal @ 181st, Partial Signal @ SR 522)

Item	Section	Description	Quantity	Unit	Unit Cost	Cost
1	1-05	Surveying	1	LS	\$34,000.00	\$34,000.00
2	1-07	Spill Prevention Plan (SPCC)	1	LS	\$2,000.00	\$2,000.00
3	1-07	Potholing	1	LS	\$5,000.00	\$5,000.00
4	1-09	Mobilization	1	LS	\$88,000.00	\$88,000.00
5	1-10	Temporary Traffic Control	1	LS	\$34,000.00	\$34,000.00
6	1-10	Traffic Control Labor	2500	HR	\$45.00	\$112,500.00
7	1-10	Traffic Control Supervisor	220	HR	\$50.00	\$11,000.00
8	1-10	Construction Signs	1	LS	\$10,000.00	\$10,000.00
9	2-01	Clearing and Grubbing	1	LS	\$20,000.00	\$20,000.00
10	2-02	Removal of Drainage Structures	1	LS	\$6,000.00	\$6,000.00
11	2-02	Removal of Structures & Obstructions	1	LS	\$20,000.00	\$20,000.00
12	2-02	Removing Asphalt Concrete Pavement	800	SY	\$8.00	\$6,400.00
13	2-02	Removing Pavement Markings	1	LS	\$1,000.00	\$1,000.00
14	2-03	Roadway Excavation (Incl. Haul)	650	CY	\$20.00	\$13,000.00
15	2-03	Unsuitable Foundation Excavation (Incl. Haul)	100	CY	\$30.00	\$3,000.00
16	2-03	Gravel Borrow, Including Haul	1,000	TN	\$18.00	\$18,000.00
17	2-03	Embankment (Method C Compaction)	1,800	CY	\$2.00	\$3,600.00
18	2-10	Ditch Excavation Including Haul	140	CY	\$30.00	\$4,200.00
19	2-11	Trimming & Clean Up	1	LS	\$5,000.00	\$5,000.00
20	4-04	Crushed Surfacing Top Course	94	TN	\$30.00	\$2,820.00
21	4-04	Crushed Surfacing Base Course	425	TN	\$28.00	\$11,900.00
22	5-04	HMA Class 1/2" PG 64-22	1,200	TN	\$85.00	\$102,000.00
23	5-04	HMA for Overlay Class 1/2" PG 64-22	60	TN	\$105.00	\$6,300.00
24	7-04	Storm Sewer Pipe, 12 In. Diam	734	LF	\$55.00	\$40,370.00
25	7-04	Storm Sewer Pipe, 18 In. Diam	256	LF	\$65.00	\$16,640.00
26	7-05	Adjust Catch Basin to Finished Grade	3	EA	\$400.00	\$1,200.00
27	7-05	Catch Basin Type 1	8	EA	\$1,250.00	\$10,000.00
28	7-05	Catch Basin Type 2 - 48"	4	EA	\$4,000.00	\$16,000.00
29	7-05	Grate Inlet	2	EA	\$1,000.00	\$2,000.00
30	7-05	Water Quality Vault W/splitter	0	EA	\$95,000.00	\$0.00
31	7-05	Shoring or Extra Excavation	1,004	LF	\$1.50	\$1,506.00
32	7-05	Adjust Utility to Finished Grade	23	EA	\$250.00	\$5,750.00
33	7-08	Bank Run Gravel for Trench Backfill	280	CY	\$35.00	\$9,800.00
34	8-01	Erosion Control	1	LS	\$10,000.00	\$10,000.00
35	8-01	Water Pollution Prevention Plan	1	LS	\$1,000.00	\$1,000.00
36	8-01	Temporary Reinforced Silt Fence	1700	LF	\$5.00	\$8,500.00
37	8-02	Property Restoration	1	LS	\$25,000.00	\$25,000.00
38	8-02	Topsoil type A	500	CY	\$40.00	\$20,000.00
39	8-02	Bark Mulch	200	CY	\$18.00	\$3,600.00

M:\Clients\Kenmore\2010\61st Ave NE-NE 181st St\Cost Estimates\09092010 61st estimates\61st Ave NE - Alt 3-signal @ 181st-partial signal @ SR 522

VD. Approve Project Design Contract No. 11-C955 with Puget Sound Energy for Undergrounding Aerial Facilities as Part of the 61st Avenue NE and NE 181st Street Signal

40	8-02	Landscaping	1	LS	\$20,000.00	\$20,000.00
41	8-02	Plant Establishment	1	year	\$5,000.00	\$5,000.00
42	8-03	Irrigation System	1	LS	\$15,000.00	\$15,000.00
43	8-04	Cement Concrete Curb and Gutter	1,100	LF	\$20.00	\$22,000.00
44	8-06	Cement Concrete Driveway	160	SY	\$58.00	\$9,280.00
45	8-13	Monument Case and Cover	2	EA	\$350.00	\$700.00
46	8-14	Cement Concrete Sidewalk	775	SY	\$42.00	\$32,550.00
47	8-14	Mail Box Relocation	15	EA	\$400.00	\$6,000.00
48	8-14	Bollards	6	EA	\$1,000.00	\$6,000.00
49	8-14	Cement Conc. Sidewalk Ramps	9	EA	\$1,500.00	\$13,500.00
50	8-20	Illumination System	1	LS	\$25,000.00	\$25,000.00
51	8-20	Partial Signal System @ SR 522 & 61st Ave NE	1	LS	\$65,000.00	\$65,000.00
52	8-20	Signal System @ 61st Ave NE & NE 181st ST	1	LS	\$225,000.00	\$225,000.00
53	8-20	Traffic Signal Interconnect	1	LS	\$15,000.00	\$15,000.00
54	8-21	Permanent Signing	1	LS	\$10,000.00	\$10,000.00
55	8-22	Pavement Striping	1	LS	\$10,000.00	\$10,000.00
56	8-24	STRUCTURAL EARTH WALL	0	SF	\$54.00	\$0.00
57		Water	50	MGAL	\$50.00	\$2,500.00
58		Testing	1	LS	\$20,000.00	\$20,000.00
59		Utilities	1	LS	\$50,000.00	\$50,000.00
Total Construction Contract Cost						\$1,243,616.00
Contingency (25%)						\$310,904.00
Right of Way						\$1,014,800.00
Design Engineering Estimate						\$161,670.08
Construction Engineering Estimate						\$148,233.92
Total Project Cost						\$2,880,224.00

* Estimate does not include any environmental mitigation.

M:\Clients\Kenmore\2010\61st Ave NE-NE 181st St\Cost Estimates\09092010 61st estimates\61st Ave NE - Alt 3-signal @ 181st-partial signal @ SR 522

VD. Approve Project Design Contract No. 11-C955 with Puget Sound Energy for Undergrounding Aerial Facilities as Part of the 61st Avenue NE and NE 181st Street Signal

**61st Ave NE - Cost Estimate- Alternative 4, Full roadway improvements including two signals
From NE 175th Street to 300' North of NE 181st Street**

Item	Section	Description	Quantity	Unit	Unit Cost	Cost
1	1-05	Surveying	1	LS	\$125,000.00	\$125,000.00
2	1-07	Spill Prevention Plan (SPCC)	1	LS	\$5,000.00	\$5,000.00
3	1-07	Potholing	1	LS	\$25,000.00	\$25,000.00
4	1-09	Mobilization	1	LS	\$250,000.00	\$250,000.00
5	1-10	Temporary Traffic Control	1	LS	\$100,000.00	\$100,000.00
6	1-10	Traffic Control Labor	5800	HR	\$45.00	\$261,000.00
7	1-10	Traffic Control Supervisor	820	HR	\$50.00	\$41,000.00
8	1-10	Construction Signs	1	LS	\$50,000.00	\$50,000.00
9	2-01	Clearing and Grubbing	1	LS	\$50,000.00	\$50,000.00
10	2-02	Removal of Drainage Structures	1	LS	\$25,000.00	\$25,000.00
11	2-02	Removal of Structures & Obstructions	1	LS	\$50,000.00	\$50,000.00
12	2-02	Removing Asphalt Concrete Pavement	2200	SY	\$10.00	\$22,000.00
13	2-02	Removing Pavement Markings	1	LS	\$7,500.00	\$7,500.00
14	2-03	Roadway Excavation (Incl. Haul)	1,200	CY	\$20.00	\$24,000.00
15	2-03	Unsuitable Foundation Excavation (Incl. Haul)	400	CY	\$30.00	\$12,000.00
16	2-03	Gravel Borrow, Including Haul	5,500	TN	\$18.00	\$99,000.00
17	2-03	Embankment (Method C Compaction)	3,920	CY	\$3.00	\$11,760.00
18	2-10	Ditch Excavation Including Haul	175	CY	\$30.00	\$5,250.00
19	2-11	Trimming & Clean Up	1	LS	\$10,000.00	\$10,000.00
20	4-04	Crushed Surfacing Top Course	350	TN	\$30.00	\$10,500.00
21	4-04	Crushed Surfacing Base Course	950	TN	\$30.00	\$28,500.00
22	5-04	HMA Class 1/2" PG 64-22	1,650	TN	\$105.00	\$173,250.00
23	5-04	HMA for Overlay Class 1/2" PG 64-22	125	TN	\$105.00	\$13,125.00
24	7-04	Storm Sewer Pipe, 12 In. Diam	734	LF	\$34.00	\$24,956.00
25	7-04	Storm Sewer Pipe, 18 In. Diam	256	LF	\$38.00	\$9,728.00
26	7-05	Adjust Catch Basin to Finished Grade	3	EA	\$400.00	\$1,200.00
27	7-05	Catch Basin Type 1	15	EA	\$1,000.00	\$15,000.00
28	7-05	Catch Basin Type 2 - 48"	9	EA	\$4,000.00	\$36,000.00
29	7-05	Grate Inlet	3	EA	\$4,000.00	\$12,000.00
30	7-05	Water Quality Vault W/splitter	1	EA	\$115,000.00	\$115,000.00
31	7-05	Shoring or Extra Excavation	1,181	LF	\$1.50	\$1,786.00
32	7-05	Adjust Utility to Finished Grade	23	EA	\$350.00	\$8,050.00
33	7-08	Bank Run Gravel for Trench Backfill	280	CY	\$35.00	\$9,800.00
34	8-01	Erosion Control	1	LS	\$10,000.00	\$10,000.00
35	8-01	Water Pollution Prevention Plan	1	LS	\$2,500.00	\$2,500.00
36	8-01	Temporary Reinforced Silt Fence	1690	LF	\$8.00	\$13,520.00
37	8-02	Property Restoration	1	LS	\$50,000.00	\$50,000.00
38	8-02	Topsoil type A	500	CY	\$40.00	\$20,000.00
39	8-02	Bark Mulch	200	CY	\$18.00	\$3,600.00

M:\Clients\Kenmore\2010\61st Ave NE-NE 181st St\Cost Estimates\61st Ave NE - Alt 4-2 full signals @ ne 181st ST & SR 522-full road improvements

VD. Approve Project Design Contract No. 11-C955 with Puget Sound Energy for
Undergrounding Aerial Facilities as Part of the 61st Avenue NE and NE 181st Street Signal

40	8-02	Landscaping	1	LS	\$75,000.00	\$75,000.00
41	8-02	Plant Establishment	1	year	\$25,000.00	\$25,000.00
42	8-03	Irrigation System	1	LS	\$50,000.00	\$50,000.00
43	8-04	Cement Concrete Curb and Gutter	1,300	LF	\$18.00	\$23,400.00
44	8-06	Cement Concrete Driveway	180	SY	\$65.00	\$11,700.00
45	8-13	Monument Case and Cover	4	EA	\$350.00	\$1,400.00
46	8-14	Cement Concrete Sidewalk	1,275	SY	\$55.00	\$70,125.00
47	8-14	Mail Box Relocation	20	EA	\$400.00	\$8,000.00
48	8-14	Bollards	6	EA	\$1,000.00	\$6,000.00
49	8-14	Cement Conc. Sidewalk Ramps	12	EA	\$1,500.00	\$18,000.00
50	8-20	Illumination System	1	LS	\$75,000.00	\$75,000.00
51	8-20	Signal System @ SR 522 & 61st Ave NE	1	LS	\$300,000.00	\$300,000.00
52	8-20	Signal System @ 61st Ave NE & NE 181st ST	1	LS	\$300,000.00	\$300,000.00
53	8-20	Traffic Signal Interconnect	1	LS	\$75,000.00	\$75,000.00
54	8-21	Permanent Signing	1	LS	\$25,000.00	\$25,000.00
55	8-22	Pavement Striping	1	LS	\$15,000.00	\$15,000.00
56	8-24	STRUCTURAL EARTH WALL	1,450	SF	\$59.00	\$85,550.00
57		Water	230	MGAL	\$50.00	\$11,500.00
58		Testing	1	LS	\$100,000.00	\$100,000.00
59		Utilities	1	LS	\$120,000.00	\$120,000.00
Total Construction Contract Cost						\$3,127,700
Right of Way						\$1,188,200
Design Engineering Estimate						\$322,000
Construction Engineering Estimate						\$460,000
Total Project Cost						\$5,097,900

M:\Clients\Kenmore\2010\61st Ave NE-NE 181st St\Cost Estimates\61st Ave NE - Alt 4-2 full signals @ ne 181st ST & SR 522-full road improvements

VD. Approve Project Design Contract No. 11-C955 with Puget Sound Energy for Undergrounding Aerial Facilities as Part of the 61st Avenue NE and NE 181st Street Signal

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
SR 522 Phase I Stage 2 Right-of-Way Acquisition			July 26, 2010
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Engineering	Ron Loewen	Ron Loewen	425 398 8900
COST OF PROPOSAL: Entire Project: \$2,714,300 or 61st Avenue Project: \$1,188,200		ACCOUNT NUMBER:	
AMOUNT BUDGETED: \$0		NAME AND FUND #: Arterial Street Fund No. 09	
ATTACHMENT(S) TO AGENDA PACKET ITEM: SR522 Phase I, Stage 2 Right-of-Way Acquisition Illustration 61 st Ave NE Project Right-of-Way Figure October 5, 2009 Agenda Bill			
SUMMARY STATEMENT:			
The City needs to pursue right of way acquisition to make all or a portion of the SR 522 Phase I Stage 2 project "shovel ready". Authorization from the City Council is requested so that the appropriate right of way acquisition documents can be prepared.			
BACKGROUND The proposed SR 522 Phase I Stage 2 Corridor Improvement Project, (the last segment) from 57th Avenue NE to 65th Avenue NE will provide two vehicular lanes and one Business Access/Transit (BAT) lane in each direction. Improvements include sidewalks, medians, roadway widening, undergrounding of aerial utilities, retaining walls, landscaping and traffic signal modifications. These improvements will require the acquisition of right of way. On April 13 2009, the City Council authorized \$1,344,650 for preparation of plans, specifications and estimates. This effort was in anticipation of receiving Federal stimulus funds. Unfortunately the project did not rank high enough to receive Federal funding, primarily because right of way acquisition has not been completed. The closer a project was to being "shovel ready" the higher the ranking. All of the projects funded in the most recent evaluation had completed right of way acquisition. The City has attempted to receive a direct Federal appropriation for the project, or a portion of it, and may be successful this winter when the new Federal Highway Act is adopted. Senator Murray has suggested an appropriation of \$2.9 million and Representative Inslee has suggested an appropriation of \$500,000. The City was also successful in obtaining some recognition from the State Legislature this past session when they acknowledged the need for improvements to SR 522 within the City of Kenmore. If future Federal funding is made available it is likely the project will need to start construction in 2011.			

VD. Approve Project Design Contract No. 11-C955 with Puget Sound Energy for Undergrounding Aerial Facilities as Part of the 61st Avenue NE and NE 181st Street Signal

DISCUSSION

There are two potential right of way acquisition scenarios the City Council could authorize.

Entire Project: This scenario would acquire right of way for the entire corridor length as shown in the attached Right of Way Acquisition Illustration. This proposal would also include acquisition of right of way along 61st Avenue NE to allow for a traffic signal at NE 181st Street and northbound left turn lane at the same location. This additional right of way acquisition would increase the right of way budget by \$262,300 from \$2,452,000 to \$2,714,300. There are no Federal or State Funds available to fund this acquisition and the City would need to use REET or General Fund resources to purchase these properties.

Right of way plans would need to be modified to include the additional right of way acquisition along 61st Avenue NE. Temporary construction easements would be required on 34 parcels, utility easements on 10 parcels, and right of way acquisition on 17 parcels. Appraisal updates would be required for parcels that have appraisal reports and 2 additional appraisal reports would be required. The cost of agents who will present offers and close acquisition transactions are included in the previously authorized contracts. The expenses for the new and updated appraisal reports are included in the cost estimate.

61st Avenue NE Project: This scenario would acquire only the right of way necessary for the construction of improvements along 61st Avenue NE from NE 175th Street northward through the intersection of NE 181st Street. This proposal would also include acquisition of right of way along 61st Avenue NE to allow for a traffic signal at NE 181st Street and northbound left turn lane at the same location. The right of way acquisition budget for this smaller project would be \$1,188,200. There are no Federal or State Funds available to fund this acquisition and the City would need to use REET or General Fund resources to purchase these properties.

The right of way plans would need to be modified to include the additional right of way acquisition along 61st Avenue NE. Temporary construction easements would be required on 8 parcels, utility easements on 1 parcel, and right of way acquisition on 8 parcels. Appraisal updates would be required for parcels that have appraisal reports and 2 additional appraisal reports would be required. The cost of agents who will present offers and close acquisition transactions are included in the previously authorized contracts. The expenses for the new and updated appraisal reports are included in the cost estimate.

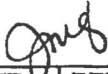
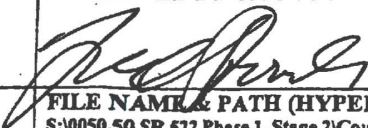
RECOMMENDATION

The most likely funding scenario is that the City will receive some partial funding for the SR 522 Project. To increase the chances of receiving those funds and to insure the project is shovel ready, the City Council is requested to authorize the expenditure of General Fund revenues to purchase the right of way for the 61st Avenue NE project.

If the Council authorizes City staff to continue the right of way acquisition process, a right of way acquisition ordinance would be prepared which would include legal descriptions for each parcel acquisition and budget documents appropriating funds to compensate property owners.

CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION:

Council set a priority for SR 522 in 2008 and reaffirmed in 2009 with council action on December 1, 2008- Agenda title: consider Projects for Federal Stimulus Package and Potential Action for Authorization to Design and Right of Way Acquisition for SR 522 Phase I Stage 2.

RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION:		
Authorize City staff to proceed with preparation of right of way acquisition documents for the Avenue NE portion of the SR 522 Project.		
REVIEWED BY FINANCE DIRECTOR: 	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER: 
TODAY'S DATE: July 13, 2010	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK): S:\0050.50 SR 522 Phase 1, Stage 2\Council Items\Agenda Bill-100509-Right-of-Way\ROW Agenda Bill 071310.doc

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
SR 522 Phase I Stage 2 Discussion of Segmenting Project for Funding Purposes			February 8, 2010
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Engineering	Ron Loewen <i>RL</i>	Ron Loewen	425 398 8900
COST OF PROPOSAL: N/A		ACCOUNT NUMBER: 09 11 7088 SR 522 Phase I Stage 2 Council Authorized To Date: \$1,344,650	
AMOUNT BUDGETED:		NAME AND FUND #:	
Design	\$ 1,168,100	Arterial Street Fund No. 09	
Right of Way	\$ 2,657,576		
Construction: Federally Eligible	\$ 19,307,924		
Non Federal	\$ 2,900,306		
Total Project	\$ 26,033,906		
ATTACHMENT(S) TO AGENDA PACKET ITEM:			
Project Segment Descriptions and Cost Estimates Project Alternatives Project Segments Based on Possible Funding Limitations			
SUMMARY STATEMENT:			
State and Federal representatives have asked the City to submit several smaller project segments of the SR 522 Phase I, Stage 2 project. Several scenarios were developed last year that would split the project in to various segments. These segments along with a description of each are included in attached documents titled SR 522 Phase I, Stage 2 Project Segment Descriptions and Cost Estimates. In addition, two related scopes of work and project budgets were prepared for the installation of a traffic signal at the 61st Avenue NE and NE 181st Street intersection and widening 61st Avenue NE to provide a northbound left turn pocket at NE 181st Street. These two related projects are described in the attachment titled Project Alternatives. The City was encouraged to submit projects with a combined funding request of approximately \$3,000,000. Based on this City Staff prepared the attached document titled Project Segments Based on Possible Funding Limitations. This table splits the overall project into 4 priority projects for which funding request forms will be completed. 1. This priority project is acquisition of right of way. This is the highest priority project as it is the next required project task. However it is unlikely to attract Federal participation as it does not construct a project or result in jobs. 2. This priority project is the Burke-Gilman trail wall. This wall supports the widening of SR 522 for the second eastbound to northbound left turn lane at 61st Avenue NE. It is essential for the efficient construction of several of the other project elements. 3. This third priority project is constructing the 61st Avenue NE approaches to SR 522. These improvements would provide additional capacity for vehicles approaching the intersection. The amount, \$3,731,000, is the Federal and State eligible portion. Additional City funds would be			

VD. Approve Project Design Contract No. 11-C955 with Puget Sound Energy for Undergrounding Aerial Facilities as Part of the 61st Avenue NE and NE 181st Street Signal

4. This priority project is constructing only the northern approach to the 61st Avenue intersection including the northbound left turn pocket at NE 181st Street and the traffic signal. The northbound left turn pocket and traffic signal have been a City Council desire but not included in the project to date because of the limited budget. This fourth priority project would provide the opportunity to complete this improvement to the benefit of Kenmore citizens.

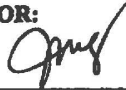
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION:

Council set a priority for SR 522 in 2008 and reaffirmed in 2009 with council action on December 1, 2008- Agenda title: consider Projects for Federal Stimulus Package and Potential Action for Authorization to Design and Right of Way Acquisition for SR 522 Phase I Stage 2.

RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION:

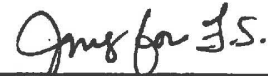
Approval of project segments and submittal for Federal and State funding.

**REVIEWED BY FINANCE
DIRECTOR:**



**REVIEWED BY CITY
ATTORNEY:**

APPROVED BY CITY MANAGER:



TODAY'S DATE:
1/26/2010

REVISION DATE(S):

FILE NAME & PATH (HYPERLINK):

S:\0050.50 SR 522 Phase 1, Stage 2\Council
Items\AgendaBill-020810_Funding
Priorities\FundPrior 012510.doc

CITY OF KENMORE, WASHINGTON																					
AGENDA BILL SUMMARY																					
AGENDA TITLE			MEETING DATE																		
Authorize the City Manager to execute an agreement with Perteet, Inc. for Surveying Services in the amount of \$70,000.			July 25, 2011																		
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE																		
Engineering	Ron Loewen	Ron Loewen	425 398 8900																		
COST OF PROPOSAL: Staff Costs: Preparing Agenda Bill 3 hours Contract Services: Surveying Services: \$70,000		ACCOUNT NUMBER: Various																			
AMOUNT BUDGETED: \$70,000		NAME AND FUND #: Arterial Street Fund Surface Water Fund Capital Improvement Fund																			
ATTACHMENT(S) TO AGENDA PACKET ITEM: Perteet, Inc. Services Agreement																					
SUMMARY STATEMENT: The City requires surveying services as part of several capital projects over the next year and a half. These projects are small in nature and by contracting for surveying services the project design can be completed by city staff. The City advertised for surveying services and received 15 statements of qualifications. Perteet was selected based on their qualifications, skill of personnel, billing rates and recommendations. The projects for which they will be providing services are shown in the table below. Surveying Services Projects <table border="1" style="margin: auto;"> <thead> <tr> <th>CIP Number</th> <th>Project</th> <th>Description</th> </tr> </thead> <tbody> <tr> <td>P 9</td> <td>Northshore Summit</td> <td>Boundary line and topographical survey to resolve encroachments</td> </tr> <tr> <td>T 27</td> <td>NE 190th Street</td> <td>Provide topographical survey of existing stairway to be replaced</td> </tr> <tr> <td>SW 8</td> <td>61st Ave NE Sidewalk</td> <td>Topographical survey of damaged sidewalk, retaining wall and stream</td> </tr> <tr> <td>SW 12</td> <td>74th Avenue Culvert Replacement</td> <td>Topographical survey of culvert upstream and downstream of roadway crossing</td> </tr> <tr> <td></td> <td>Misc.</td> <td>Additional 2 projects as assigned</td> </tr> </tbody> </table>				CIP Number	Project	Description	P 9	Northshore Summit	Boundary line and topographical survey to resolve encroachments	T 27	NE 190 th Street	Provide topographical survey of existing stairway to be replaced	SW 8	61 st Ave NE Sidewalk	Topographical survey of damaged sidewalk, retaining wall and stream	SW 12	74 th Avenue Culvert Replacement	Topographical survey of culvert upstream and downstream of roadway crossing		Misc.	Additional 2 projects as assigned
CIP Number	Project	Description																			
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	Misc.	Additional 2 projects as assigned																			
The agreement requires a task order for each project with an agreed upon not to exceed budget.																					
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION: Adopted 2011 - 16 Capital Improvement Plan 2011-12 Adopted Biennial Budget																					

VE. Authorize the City Manager to Execute Contract No. 11-C956 with Perteet, Inc., for Surveying Services in the Amount of \$70,000 - Ron Loewen, City Engineer

RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Authorize the City Manager to execute an agreement with Perteet, Inc. for Surveying Services in the amount of \$70,000.		
REVIEWED BY FINANCE DIRECTOR:	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER: 
TODAY'S DATE: July 11, 2011	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK): S:\Contracts\Surveyor\July_AGB_Agrmt.docx

VE. Authorize the City Manager to Execute Contract No. 11-C956 with Perteet, Inc., for Surveying Services in the Amount of \$70,000 - Ron Loewen, City Engineer

CONTRACT FOR CONSULTANT SERVICES

Surveying Services

Perteet, Inc.

Contract No. 11-C956

This Agreement is entered into by and between the City of Kenmore, Washington, a municipal corporation ("City") and Perteet, Inc., whose principal office is located at 2707 Colby Avenue, Suite 900, Everett, WA 98201 ("Consultant").

WHEREAS, the City desires to have certain services performed for its citizens; and

WHEREAS, the City has selected the Consultant to perform such services pursuant to certain terms and conditions;

NOW, THEREFORE, in consideration of the mutual benefits and conditions set forth below, the parties agree as follows:

1. Scope of Services to be Performed by Consultant. The Consultant shall perform the services described in Exhibit "A" of this Agreement. In performing the services, the Consultant shall comply with all federal, state and local laws and regulations applicable to the services. The Consultant shall perform the services diligently and completely and in accordance with professional standards of conduct and performance.

2. Compensation and Method of Payment. The Consultant shall request payment for work performed using the billing invoice form at Exhibit "C."

The City shall pay Consultant:

[Check applicable method of payment]

☒ According to the rates set forth in Exhibit "B".

☒ A sum not to exceed \$70,000_____

☐ Other (describe): _____

The Consultant shall complete and return to the City Exhibit "D," Tax Identification Number," prior to or along with the first billing invoice. The City shall pay the Consultant for services rendered within ten (10) days after City Council voucher approval.

3. Duration of Agreement. This Agreement shall be in full force and effect for a period commencing on July 1, 2011 and ending December 28, 2012 unless sooner

terminated under the provisions of this Agreement. Time is of the essence of this Agreement in each and all of its provisions in which performance is required.

4. Ownership and Use of Documents. Any records, files, documents, drawings, specifications, data or information, regardless of form or format, and all other materials produced by the Consultant in connection with the services provided to the City, shall be the property of the City whether the project for which they were created is executed or not.

5. Independent Contractor. The Consultant and the City agree that the Consultant is an independent contractor with respect to the services provided pursuant to this Agreement. The Consultant will be solely responsible for its acts and for the acts of its agents, employees, subconsultants or representatives during the performance of this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties.

6. Indemnification.

A. The Consultant shall protect, defend, indemnify and save harmless the City, its officers, employees and agents from any and all costs, claims, suits, losses or liabilities of any nature, including attorneys' fees, arising out of or in connection with the negligent acts or omissions of the Consultant, its officers, employees and agents in performing this Agreement.

B. The City shall protect, defend, indemnify and save harmless the Consultant, its officers, employees and agents from any and all costs, claims, suits, losses or liabilities of any nature, including attorneys' fees, arising out of or in connection with the negligent acts or omissions of the City, its officers, employees and agents in performing this Agreement.

7. Insurance.

The Consultant shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives or employees.

A. Minimum Scope of Insurance.

Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, and personal injury and advertising injury. The City shall be named as an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance.

Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$1,000,000 general aggregate.

3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

C. Other Insurance Provisions.

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability, and Commercial General Liability insurance:

1. The Consultant's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance or insurance pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contribute with it.

2. The Consultant's insurance shall be endorsed to state that coverage shall not be canceled by either party except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

D. Verification of Coverage.

Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

8. Record Keeping and Reporting.

A. The Consultant shall maintain accounts and records, including personnel, property, financial, and programmatic records, which sufficiently and properly reflect all direct and indirect costs of any nature expended and services performed pursuant to this Agreement. The Consultant shall also maintain such other records as may be deemed necessary by the City to ensure proper accounting of all funds contributed by the City to the performance of this Agreement.

B. The foregoing records shall be maintained for a period of seven (7) years after termination of this Agreement, unless permission to destroy them is granted by the Office of the Archivist in accordance with Chapter 40.14 RCW and by the City.

9. Audits and Inspections. The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review or audit by the City during the performance of this Agreement.

10. Termination.

A. The City reserves the right to terminate or suspend this Agreement at any time, with or without cause, upon seven (7) days prior written notice. In the event of termination or suspension, all finished or unfinished documents, data, studies, worksheets, models, reports or other materials prepared by the Consultant pursuant to this Agreement shall promptly be submitted to the City.

B. In the event this Agreement is terminated or suspended, the Consultant shall be entitled to payment for all services performed and reimbursable expenses incurred to the date of termination.

C. This Agreement may be canceled immediately if the Consultant's insurance coverage is canceled for any reason, or if the Consultant is unable to perform the services called for by this Agreement.

D. The Consultant reserves the right to terminate this Agreement with not less than fourteen (14) days written notice, or in the event that outstanding invoices are not paid within sixty (60) days.

E. This provision shall not prevent the City from seeking any legal remedies it may otherwise have for the violation or nonperformance of any provisions of this Agreement.

11. Discrimination Prohibited. The Consultant shall not discriminate against any employee, applicant for employment, or any person seeking the services of the Consultant under this Agreement, on the basis of race, color, religion, creed, sex, sexual

orientation, age, national origin, marital status, or presence of any sensory, mental or physical disability.

12. Assignment and Subcontract. The Consultant shall not assign or subcontract any portion of the services contemplated by this Agreement without the prior written consent of the City.

13. Conflict of Interest. The Consultant represents to the City that it has no conflict of interest in performing any of the services set forth in Exhibit "A." In the event that the Consultant is asked to perform services for a project with which it may have a conflict, Consultant will immediately disclose such conflict to the City.

14. Confidentiality. All information regarding the City obtained by the Consultant in performance of this Agreement shall be considered confidential. Breach of confidentiality by the Consultant shall be grounds for immediate termination.

15. Non-appropriation of Funds. If sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the City will so notify the Consultant and shall not be obligated to make payments for services or amounts incurred after the end of the current fiscal period. This Agreement will terminate upon the completion of all remaining services for which funds are allocated. No penalty or expense shall accrue to the City in the event that the terms of the provision are effectuated.

16. Entire Agreement. This Agreement contains the entire agreement between the parties, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind either of the parties. Either party may request changes to the Agreement. Changes which are mutually agreed upon shall be incorporated by written amendments to this Agreement.

17. Contract Management. This Agreement shall be administered by the following individuals:

City of Kenmore: Ron Loewen, City Engineer

Consultant: Michael Yeoman, executive Vice President

18. Notices. Notices to the City of Kenmore shall be sent to the following address:

CITY OF KENMORE
City of Kenmore
Attn: Fred Stouder, City Manager
PO Box 82607
Kenmore, WA 98028-0607
(425)398-8900

With copies to:
City of Kenmore
Attn: City Clerk
P.O. Box 82607
Kenmore, WA 98028-0607

Notices to the Consultant shall be sent to the following address:

Perteet Inc.
Attn: Michael Yeoman
2707 Colby Avenue, Suite 900
Everett, WA 98201

19. Applicable Law; Venue; Attorneys' Fees. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be exclusively in King County, Washington. The prevailing party in any such action shall be entitled to its attorneys' fees and costs of suit, which shall be fixed by the judge hearing the case and such fee shall be included in the judgment.

20. Severability. Any provision or part of this Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the City and the Consultant, who agree that the Agreement shall be reformed to replace such stricken provision or part with a valid and enforceable provision that comes as close as reasonably possible to expressing the intent of the stricken provision.

CITY OF KENMORE, WASHINGTON

CONSULTANT

By: _____

Frederick C. Stouder

Title: City Manager

Date: _____

By: _____

Michael Yeoman

Title: Executive Vice President

Date: _____

ATTEST AS TO FORM:

Rod Kaseguma, City Attorney

EXHIBIT A

Scope of Services to be Provided by Consultant. The Consultant shall furnish services including, but not limited to, the following:

SURVEYING

Provide topographical and boundary line surveys for public works projects within the City of Kenmore.

1. Schedule

Provide a schedule for each task order assignment.

2. Potential Task Order Projects include the following:

CIP Number	Project	Description
P 9	Northshore Summit	Boundary line and topographical survey to resolve encroachments
T 27	NE 190 th Street	Provide topographical survey of existing stairway to be replaced
SW 8	61 st Ave NE Sidewalk	Topographical survey of damaged sidewalk, retaining wall and stream
SW 12	74 th Avenue Culvert Replacement	Topographical survey of culvert upstream and downstream of roadway crossing
	Misc.	Additional 2 projects as assigned

EXHIBIT B

Rates for Services to be Provided by Consultant. The Consultant shall furnish the services in accordance with the following rates and reimbursable expenses:

Survey and Construction Observation Classifications	2011 Hourly Billing Rate
Principal Surveyor	\$180.00
Survey Manager	\$130.00
Senior Professional Land Surveyor	\$130.00
Professional Land Surveyor	\$105.00
Project Surveyor II	\$100.00
Project Surveyor I	\$95.00
Survey Technician III	\$85.00
Survey Technician II	\$75.00
Survey Technician I	\$65.00
One Person Survey Crew	\$90.00
Two Person Survey Crew	\$150.00
Three Person Survey Crew	\$215.00

Mileage:

Mileage to be billed at IRS approved rate based on the Federal Mileage Reimbursement Rate at the time the mileage is incurred.

Other Expenses:

Direct Non-Salary costs will be reimbursed at the actual cost to the Consultant. These charges may include, but are not limited to the following items: printing, long distance telephone, supplies, computer charges, copying, postage, special deliveries, certified mailings. The billing for direct non-salary costs shall include an itemized listing of the charges directly identifiable with the Task Order. The Consultant shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the CITY upon request. All above charges must be necessary for the services provided under this AGREEMENT.

EXHIBIT C
City of Kenmore
Billing Invoice

To: City of Kenmore
PO Box 82607
Kenmore, Washington 98028
Phone: (425) 398-8900
Fax: (425) 481-3236

Specific Project: _____

Contract No.: _____

Invoice Number: _____ Date of Invoice: _____

Consultant: _____

Mailing Address: _____

Telephone: () _____

Contract Period: _____ Reporting Period: _____

Amount requested this invoice: \$ _____

Attach itemized description of services provided.

Authorized signature

For Department Use Only

BUDGET SUMMARY

Total contract amount	\$ _____
Previous payments	\$ _____
Current request	\$ _____
Balance remaining	\$ _____

Approved for Payment by: _____ Date: _____

EXHIBIT D

CITY OF KENMORE
18120 68th Ave NE
P.O. Box 82607
Kenmore, WA 98028
Phone: (425) 398-8900
Fax: (425) 481-3236

TAX IDENTIFICATION NUMBER

In order for you to receive payment from the City of Kenmore, the must have either a Tax Identification Number or a Social Security Number. The Internal Revenue Service Code requires a Form 1099 for payments to every person or organization other than a corporation for services performed in the course of trade or business. Further, the law requires the City to withhold 20% on reportable amounts paid to unincorporated persons who have not supplied us with their correct Tax Identification Number or Social Security Number.

Please complete the following information request form and return it to the City of Kenmore prior to or along with the submittal of the first billing invoice.

Please check the appropriate category:

☒ Corporation ☐ Partnership ☐ Government Consultant
☐ Individual/Proprietor ☐ Other (explain)

TIN No.: _____

Social Security No.: _____

Print Name: _____

Title: _____

Business Name: _____

Business Address: _____

Business Phone: _____

Date

Authorized Signature (Required)

**SEE AGENDA BILL & ATTACHMENTS FOR BUSINESS AGENDA ITEM VIII
“B” ORDINANCE No. 11-0330 FOR INFORMATION RELATING TO THIS
PUBLIC HEARING.**

LEGAL NOTICE

**PUBLIC HEARING
CITY OF KENMORE, WASHINGTON
P.O. Box 82607
18120 68th Avenue NE
Kenmore, WA 98028**

**Proposed Revisions to the Kenmore Municipal Code
Relating to Streets and Bridges; Amending Kenmore
Municipal Code Title 12 Chapters 05, 10, 15, 20, 35, 40, and
55.**

Notice is hereby given that the City of Kenmore City Council will hold a public hearing on Monday, July 25, 2011 7:00 p.m., at Kenmore City Hall, Council Chambers, 18120 68th Avenue NE, related to proposed Revisions to the Kenmore Municipal Code Relating to Streets and Bridges; Amending Kenmore Municipal Code Title 12 Chapters 05, 10, 15, 20, 35, 40, and 55. Additional information is available on the City's website www.kenmorewa.gov or at City Hall. Citizens attending the hearing have the right and are invited to express their views by oral and/or written comments concerning the proposal.

**Lynn Suskin
City Clerk**

Published in the Seattle Times on Friday, July 15, 2011

CONTINUED FROM THE JULY 18, 2011 COUNCIL MEETING.

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Public Hearing on Proposed Amendments to Development Regulations Including Title 17 (Land Division), Title 18 (Zoning) and Title 19 (Planning Policies and Procedures) of the Kenmore Municipal Code			July 18, 2011
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Planning & Community Development	Debbie Bent	Lauri Anderson, Senior Planner	425-398-8900
COST OF PROPOSAL: Approximately 1056 staff hours from October 2010 through May 2011 to prepare and review the amendments.		ACCOUNT NUMBER: 01 58 5001 Regular Salaries & Wages	
AMOUNT BUDGETED:		NAME AND FUND #: General Fund #01	
ATTACHMENT(S) TO AGENDA PACKET ITEM: Attachment #1: Minor amendments made to proposed code amendments subsequent to the June 28 th Council workshop. The minor amendments include adding definitions for clustered development and zero-lot-line development in Title 18; Amending Title 19 to increase the notification to property owners for a Notice of Application and Notice of Public Hearing from 500 feet to within 1000 feet of a land use proposal; Clarifying the purpose of italicized text at the beginning of the definition section of each title; and Defining financial guarantees consistently in Titles 17 and 18. Reformatting the tables in Title 18 to be consistent in terms of labeling and superscripts is underway and will be completed in conjunction with ordinance preparation. Attachment #2: Proposed amendment to Title 18 to allow the temporary residential use of recreational vehicles in the event of an emergency. This amendment was suggested by Councilmember Sperry at the June 28 th workshop. Attachment #3: Revisions to Code sections in other Chapters of the Kenmore Municipal Code that need to be adopted as they are cross-referenced as part of code amendments proposed to Titles 17-19. For example, the impact fee regulations are proposed to be moved from Title 18 to Title 20. Attachment #4: Three revised illustrations for Title 18 related to fence height measurement, building height measurement and retaining wall measurement to be consistent with proposed text amendments. Attachment #5: Three tables summarizing proposed amendments for Title 17, 18 and 19 into four categories “amendments to eliminate redundancies and inconsistencies”, “amendments to streamline and simplify”, “amendments to clarify code interpretation and authority”, “new regulations to clarify or codify existing standards & practices”. Attachment #6: Proposed amendments to Chapter 18.125 “Enforcement” and Chapter 19.30 “Hearing Examiner” to be consistent with new Chapter 1.20 “Code Enforcement” being considered for adoption at the July 11, 2011 Council meeting. Attachment #7: Amendments to Chapter 18.55 Critical Areas and Title 19 Planning Policies and Procedures approved 9/24/10 as part of Ordinance 10-0313 were included to be consistent with the Shoreline Master Program. As the State Department of Ecology has not issued a final decision on the Shoreline Master Program then the ordinance is not yet in effect. Therefore, amendments to Chapter 18.55 and Title 19 related to the Shoreline Master Program will be removed from the proposed ordinance for development regulation amendments. The updated Shoreline Master Program language would then be re-incorporated into the code at the time of Shoreline Master Program approval. Street Tree requirements referenced in Section 18.35.045 and 18.45.050 were proposed to be deleted from Title 18 and moved to Title 12 “Streets and Bridges”. However, the proposed ordinance for development regulations will keep the requirements in Title 18 until such time that amendments to Title 12 are considered by Council, likely in 2012.			
SUMMARY STATEMENT: At the July 18th, 2011 Council meeting, Planning & Community Development staff (Debbie Bent and Lauri Anderson) will be present to provide a brief introduction to the proposed amendments before Council opens the Public Hearing for public comment.			
Titles 17, 18 and 19 contain the requirements and procedures that regulate land division and land development for the City of Kenmore, which implement the goals and policies of the City’s adopted Comprehensive Plan. The administrative amendments are proposed in order to: eliminate redundancies and inconsistencies in the current code; streamline and simplify review and permit processes; specify code interpretation and decision making authority; and to include new regulations for clarity (refer to Attachment #5). The proposed amendments introduced to Council at the June 13, 2011 Council meeting and discussed			

at the June 28th Council workshop have been amended to reflect Council action at the June 28th workshop and to incorporate other minor amendments (see attachments #1, #2, #3, #4, #6 and #7).

Note: The City Attorney is in the process of completing reviewing of the proposed amendments. Additional amendments to development regulations and a revised ordinance, as appropriate to address City Attorney comments, may be provided to Council for consideration, prior to the July 18th, 2011 meeting, as a supplement to the agenda packet information.

CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION: The proposed amendments were introduced to Council at the June 13, 2011 Council meeting. Council discussed proposed amendments at a June 28th, 2011 Council workshop. The following motions were passed by Council at the June 28th, 2011 workshop regarding the proposed amendments. A motion passed (6-0) to authorize proposed amendments to Title 17 as drafted to proceed to a Public Hearing. A motion passed (6-0) to amend Title 19 to increase the notification requirements to property owners regarding land use applications from properties within 500 feet to 1000 feet of a land use application for the initial Notice of Application and Notice of Public Hearing with the Notice of Decision sent only to interested parties. A motion passed (6-0) to authorize proposed amendments to Title 19, with the inclusion of the amendment proposed by Council, to proceed to a Public Hearing. A motion passed (6-0) to authorize proposed amendments to Title 18 as drafted to proceed to a Public Hearing. At the June 28th Council workshop, it was also the consensus of Council to schedule a workshop hosted by staff to provide an opportunity for public feedback, comment and questions prior to a Public Hearing. That public workshop is scheduled for Wednesday, July 13, 2011.

The adopted 2011-2012 Biennial Budget includes a work program objective for the Department of Planning & Community Development to prepare recommendations for Council consideration regarding proposed amendments to development regulations to provide reorganization, correct inconsistencies and clarify standards. This work program is supported by Comprehensive Plan Land Use Objective 2.2, "Prepare clear development regulations consistent with the Comprehensive Plan." Policy LU-2.2.3 under this objective states that, "Kenmore's regulation of land use should...be expeditious, predictable, clear, straightforward, and internally consistent" and "be responsive, understandable, and accessible to the public."

The development code amendment work program supports the second of the Council's top five goals which is to implement the economic development plan. A goal of the Economic Development Strategy adopted by Council June 1, 2009 is to "support existing businesses and pursue opportunities to expand employment". A strategy identified to implement this goal is "an audit of regulations, zoning, fees and processes to ensure that they are consistent with the Comprehensive Plan and Downtown Plan, supportive of investment in the City's target sectors according to current business practices, and competitive relative to neighboring communities". The development code amendment work program item supports implementation of the 2009 Economic Development Strategy through a comprehensive audit of regulations and review of processes, along with identification of future code amendments (including a zoning review) to support Council's goal. This effort is a continuation of several measures taken to improve the city's land development process, including creation of the Development Review Team and the Department of Land Development and Permitting in 2010 to improve and streamline the development review and permit process.

RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Council action to close the July 18th Public Hearing, discuss proposed amendments, give direction, and potentially pass a motion approving Ordinance 11-0329 adopting proposed amendments. Proposed Ordinance 11-0329 that includes all amendments as described in the attachments is included as a business item on the July 18th, 2011 Council agenda for Council consideration. Alternatively, Council can continue the public hearing, discussion and possible direction on ordinance adoption to a future Council meeting.

**REVIEWED BY FINANCE
DIRECTOR:**



**REVIEWED BY CITY
ATTORNEY:**

APPROVED BY CITY MANAGER:

Nko R. F. Stander

**TODAY'S
DATE:**
July 7, 2011

REVISION DATE(S):

**FILE NAME & PATH
(HYPERLINK):**

ATTACHMENT 1

As a result of Council direction at the June 28, 2011 workshop, the 5/23/11 DRAFT amendments have been modified as follows. As requested, additional formatting changes will be incorporated into the amendments attached to any adopting ordinance.

Title 17

New section:

17.10.005

Scope of chapter.

This chapter contains definitions of technical and procedural terms used throughout this title. Defined terms are shown in italics in the text of the title.

Revised section:

17.10.150

Financial guarantee.

“Financial guarantee” means a form of financial security posted to ensure timely and proper completion of *improvements*, compliance with this code or to warrant materials, workmanship of *improvements*, and design. Financial guarantees include assignments of funds, cash deposits, surety bonds, and other forms of financial security acceptable to the *city manager*.

Title 18

Revised section:

18.20.010

Scope of chapter.

This chapter contains definitions of technical and procedural terms used throughout ~~the code~~ this title. Defined terms are shown in italics in the text of ~~this~~ this title.

New section:

18.20.485

Clustered.

“Clustered” means the grouping of structures on a portion of the available land, reserving a significant amount of the site as open space. Lot segregations for clustered development are discussed in KMC 17.20.130.

Revised section:

18.20.1050

Financial guarantee.

“Financial guarantee” means a form of financial security posted to ensure timely and proper completion of improvements, ~~to ensure~~ compliance with this code, ~~and/~~ or to warranty materials, workmanship of improvements, and design. Financial guarantees include assignments of funds, cash deposits, ~~and~~ surety bonds, ~~and/or~~ other forms of financial security acceptable to the *city manager*. ~~For the purposes of this title, the terms performance guarantee, maintenance guarantee, and defect guarantee are considered subcategories of financial guarantee. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.467).]~~

ATTACHMENT 1

New section:

18.20.3340

Zero-lot-line development.

“Zero-lot-line development” means a *development* that sites a building so that a wall is on the property boundary. Lot segregations for zero-lot-line development are discussed in KMC 17.20.125.

Title 19

New section:

19.10.003

Scope of chapter.

This chapter contains definitions of technical and procedural terms used throughout this title. Defined terms are shown in italics in the text of the title.

Revised subsection:

19.25.060

Notice of application.

E. Within 14 calendar days of the determination of completeness for the application, the notice of application shall be:

1. Posted at the project site on one or more public notice boards as provided in KMC 19.25.065;
2. Mailed by first class mail as follows:

a. To owners of record of property in an area within ~~500~~1000 feet of the site, but the area shall be expanded as necessary to send mailed notices to at least 20 different property owners; ~~provided, that for site plan reviews conducted under KMC Chapter 18.105, the area shall be expanded to provide notice to owners of record of property within 1,000 feet of the site; ...~~

Revised section:

19.30.180

Notice.

Notice of the time and place of any hearing on an application or appeal before the hearing examiner pursuant to this chapter shall be mailed by first class mail at least 14 calendar days prior to the scheduled hearing date to all persons who commented on the application or requested notice of the hearing and all owners of record of property in an area within 1000 feet of the site, although the area shall be expanded as necessary to send mailed notices to at least 20 different property owners; Included with the notice shall be along with the report by the *city*, and in the case of appeals any written appeal arguments submitted to the *city*.

ATTACHMENT 2

At the workshop on July 28, 2011, Councilmember Sperry suggested that language be added to the Recreational Vehicle (RV) section to allow longer-term use of an RV for temporary lodging in the event of an emergency.

During a “declared” emergency, existing language in the Temporary Use section (18.105.110.D, p. 367) would exempt an RV user from needing to obtain a permit. However, in the case of a limited emergency (an apartment fire, for example) or a large-scale emergency in a surrounding community, the proposed revision would allow the City Manager to grant an exception to the standards for use of an RV for temporary lodging.

Staff recommends the following language:

Title 18

Revised section:

18.30.155

Recreational vehicles.

A. A single *recreational vehicle* (RV) may be occupied for temporary lodging for up to three weeks on a *lot* already containing another *dwelling unit* with the permission of the property owner subject to the following conditions:

1. No more than two three-week periods shall be permitted per calendar year per lot and the two periods shall be separated by a minimum of 30 calendar days;
2. Such use shall not create a public health hazard or nuisance;
3. The RV shall be parked on an approved parking pad;
4. No business occupation shall be conducted in said RV;
5. The RV shall not use generators.

B. An RV may be occupied for temporary lodging for up to 45 consecutive days if connected to approved utilities including potable water and wastewater disposal and approved through a temporary use permit.

1. The temporary use permit issued must be affixed to the RV in such a manner that it is prominently displayed and visible, to the extent possible, from a public right-of-way.

C. The city manager may approve use of an RV for temporary lodging not meeting the standards of sections A and B of this section when necessary to provide emergency shelter. Approval timeframes and conditions of approval shall be as determined by the city manager.

ATTACHMENT 3

As part of the code amendment process, code citations must be cross-referenced between titles. Following are amendments needed throughout the Municipal Code to match citations to the proposed code amendments.

2.20.120 Historic resources – Review process.

- A. The city of Kenmore shall not approve any development proposal or otherwise issue any authorization to alter, demolish, or relocate any historic resource identified in the city of Kenmore historic resource inventory, pursuant to the requirements of this chapter. The ~~development~~ standards contained in ~~Chapter 18.30 KMC, Development Standards – Density and Dimensions, and Chapter 18.40 KMC, Development Standards – Landscaping and Water Use, Title 18~~ shall ~~may~~ be ~~expanded~~ **modified**, when necessary, to preserve the aesthetic, visual and historic integrity of the historic resource from the impacts of development on adjacent properties.

12.58.070 Application review.

- C. The department of community development shall review and evaluate all applications to determine consistency with respect to the standards and requirements of Chapter 18.60 KMC and KMC Title 21. The department shall also be the lead agency for purposes of any environmental review required under Chapter 19. ~~2535~~ KMC.

12.75.010 Components of the integrated transportation program.

There are two components of the integrated transportation program. These components are as follows:

- A. Impact fees (~~Chapter 18.100 Title 20~~ KMC), by which the city of Kenmore applies transportation impact fees to new development for collecting a fair and equitable share of transportation improvement costs that are needed in accordance with Chapter 82.02 RCW, the city of Kenmore comprehensive plan and ~~Chapter 18.100 Title 20~~ KMC.
- B. Intersection standards (IS) by which the city of Kenmore evaluates intersections affected by new development to assure safe and efficient operation and that improvements to mitigate the adverse impacts of such developments are completed, in accordance with the State Environmental Policy Act (SEPA), KMC 19.35. ~~099070~~, and the city of Kenmore comprehensive plan and Chapter 12.80 KMC.

12.75.020 Procedures for impact fees and intersection standards.

- A. Following the submission of a development application, the department of public works shall determine the transportation impact fee to be paid under ~~Chapter 18.100 Title 20~~ KMC and shall determine the traffic impacts of the proposed development on streetway intersections that will be adversely impacted and which must be mitigated using Chapter 12.80 KMC.
- F. Impact fees and fees for IS shall be as follows:
 - 1. All developments subject to the impact fees shall pay an administrative fee as established by ~~Chapter 18.100 Title 20~~ KMC at the time of application for an impact fee determination. Payment for impact mitigation fees shall be paid at the time a development permit is issued, but residential developments may defer payment until building permits are issued; and

13.35.025 King County Surface Water Design Manual adopted.

- B.7.
 - 2. Fencing is optional. Fencing may be constructed of wood or chain link material; however maintenance of wood fences will be the responsibility of the property owner or homeowners

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association. Chain link fencing must be green or black vinyl coated. If fencing is proposed, the landscape plan must include a 10-foot buffer of Type 1 landscaping on the outside of the fenced area, as defined by KMC 18.4035.040(A), together with climbing evergreen shrubs or vines capable of growing on the fence. Alternatives to Type 1 landscaping within the 10-foot buffer may be approved for low fences that do not create significant view blockage.

13.35.030 Definitions.

Z. "Large project drainage review" means the evaluation required by KMC 13.35.040 for any proposed project that:

1. ~~Has an urban plan development ((UPD), as defined in KMC 18.20.3100) land use designation in the city of Kenmore comprehensive plan land use map;~~
2. Would, at full build-out of the project site, result in 50 acres or more of new impervious surface within a drainage sub-basin or a number of sub-basins hydraulically connected across sub-basin boundaries; or
3. Has a project site of 50 acres or more within a critical aquifer recharge area, ~~as defined in Chapter 19.40 KMC.~~

13.40.070 Rate adjustments and appeals.

F. Decisions of the director on requests for rate adjustments shall be final unless within 30 days of the date the decision was mailed, the applicant submits in writing to the director a notice of appeal setting forth a brief statement of the grounds for appeal and requesting a hearing before the Kenmore hearing examiner. The examiner's decision shall be a final decision pursuant to KMC 19.30.060070.

15.25.050 Clearing and grading permit required – Exceptions.

A.

7. Any clearing or grading for roads within a preliminary or finally approved residential plat which has been approved by the director and for which a financial guarantee has been posted and that meets tree management and protection regulations set forth in Chapter 18.4257 KMC;

10. Clearing or grading within a preliminarily or finally approved residential plat not involving any excavation exceeding five feet in vertical depth or any fill exceeding three feet in vertical depth, regardless of the amount of material to be removed; provided, that this exception does not apply if the clearing or grading is within a critical area as regulated in Chapter 18.55 KMC or an area placed into tracts or easements pursuant to KMC 18.3021.030. This exception does not apply within an area placed into tracts or easements for a wildlife habitat corridor pursuant to ~~Chapter 18.3517.20.130 KMC or 18.30.140 KMC~~ unless the proposed activity is otherwise exempt under Chapter 18.55 KMC;

11. Excavation less than five feet in vertical depth not involving more than 100 cubic yards of earth or other material on a single site; provided, that the exception does not apply if the clearing or grading is within a critical area as regulated in Chapter 18.55 KMC or an area placed into tracts or easements pursuant to KMC 18.3021.030. This exception does not apply within an area placed into tracts or easements for a wildlife habitat corridor pursuant to ~~Chapter 18.3517.20.130 KMC or 18.30.140 KMC~~ unless the proposed activity is otherwise exempt under Chapter 18.55 KMC;

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12. Fill less than three feet in vertical depth not involving more than 100 cubic yards of earth or other material on a single site; provided, that the exception does not apply if the clearing or grading is within a critical area as regulated in Chapter 18.55 KMC or an area placed into tracts or easements pursuant to KMC 18.30.140. This exception does not apply within an area placed into tracts or easements for a wildlife habitat corridor pursuant to Chapter 18.35.17.20.130 KMC or 18.30.140 KMC unless the proposed activity is otherwise exempt under Chapter 18.55 KMC;

16. Clearing outside of critical areas and buffers as regulated in Chapter 18.55 KMC, unless the development proposal site is within an area subject to clearing restrictions contained in KMC 15.25.140, wildlife habitat corridors pursuant to Chapter 18.35.17.20.130 KMC or 18.30.140 KMC, critical drainage areas established by administrative rule or property-specific development standards pursuant to Chapter 18.8247 KMC.

15.25.070 Permit requirements.

Except as exempted in KMC 15.25.050, no person shall do any clearing or grading without first obtaining a clearing and grading permit from the director. A separate permit shall be required for each site and may cover both excavations and fills.

A. Application. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished for that purpose. The director shall prescribe the form by which application is made. No application shall be accepted unless it is completed consistent with the requirements of this chapter and Chapter 19.25 KMC, Procedures for Land Use Permit Applications/Decisions, Public Notice, Hearings and Appeals. In addition to the requirements of KMC 19.25.040 every application shall:

5. Identify any clearing restrictions contained in KMC 15.25.140, wildlife habitat corridors pursuant to Chapter 18.35.17.20.130 KMC or 18.30.140 KMC, critical drainage areas established by administrative rule or property-specific development standards pursuant to Chapter 18.8247 KMC;

C. Information on Plans and in Specifications. Plans shall be drawn to an engineer's scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this chapter and all other relevant laws, rules, regulations and standards. The first sheet of each set of plans shall give the location of the work and the name and address of the owner and the person by whom they were prepared. The plans shall include the following minimum information:

1. General vicinity of the proposed site;
2. Property limits and accurate contours of existing ground and details of terrain and area drainage;
3. Limiting dimensions, elevations or finished contours to be achieved by the grading, and proposed drainage channels and related construction;
4. Location of all proposed cleared areas;
5. Location of any open space tracts or conservation easements if required pursuant to:
 - a. KMC 15.25.140,
 - b. Chapter 18.35 KMC 17.20.130 or KMC 18.30.140,
 - c. Critical drainage area, or
 - d. Property-specific development standards pursuant to Chapter 18.8247 KMC;

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15.25.140 Clearing standards.

A. For clearing and grading permits issued under this chapter, the current clearing standards contained in this section and in the following regulations shall apply:

1. Chapter 18.55 KMC, Critical Areas, and its adopted administrative rules;
2. Property-specific development standards pursuant to Chapter 18.8247 KMC;
3. Critical drainage area designations identified by adopted administrative rule; and
4. Wildlife habitat corridors pursuant to ~~Chapter 18.35~~ 17.20.130 KMC or 18.30.140 KMC.

21.20.070 Landscaping

B. Performance guarantees for landscaping required pursuant to Chapter 18.4035 KMC shall be sufficient to cover the cost of conformance with conditions of the permit, and shall be required for a period of two years after the planting or transplanting of vegetation to insure proper installation, establishment and maintenance. This time period may be extended by one year by the director, if necessary to cover a planting and growing season.

Language about impact fees is proposed to be moved from Title 18 into Title 20, Development Permits.

Staff recommends adding a new chapter in Title 20 as follows. (Yellow highlighted and underlined text is text moved from Title 18. Gray highlighted underlined text is new text. Gray highlighted strike-through text is deleted text.)

Chapter 20.47

ROAD AND PARK IMPACT FEES

Sections:

Article I. General

- ~~18.100~~20.47.010 Findings and authority.
- ~~18.100~~20.47.020 Definitions.
- ~~18.100~~20.47.030 Assessment of impact fees.
- ~~18.100~~20.47.040 Exemptions.
- ~~18.100~~20.47.050 Credits.
- ~~18.100~~20.47.060 Tax adjustments.
- ~~18.100~~20.47.070 Appeals.
- ~~18.100~~20.47.080 Establishment of impact fee accounts.
- ~~18.100~~20.47.090 Refunds.
- ~~18.100~~20.47.100 Use of funds.
- ~~18.100~~20.47.110 Review.

Article II. Rates

- ~~18.100~~20.47.120 Road impact fee.

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- ~~18.100~~20.47.130 Park impact fee.
~~18.100~~20.47.140 Independent fee calculations.

Article III. Miscellaneous Provisions

- ~~18.100~~20.47.150 Existing authority unimpaired.
~~18.35.170~~20.47.155 RecreationPark space in lieu of impact fee.

Article I. General

~~18.100~~20.47.010

Findings and authority.

The city council of the city of Kenmore (the "council") hereby finds and determines that new growth and development, including but not limited to new residential, commercial, retail, office, and industrial development, in the city of Kenmore will create additional demand and need for public facilities in the city of Kenmore, and the council finds that new growth and development should pay a proportionate share of the cost of new facilities needed to serve the new growth and development. The city of Kenmore has conducted extensive studies documenting the procedures for measuring the impact of new developments on public facilities, has prepared the Roads Study and Parks Study, and hereby incorporates these studies into this ~~titlechapter~~ by reference. Therefore, pursuant to Chapter 82.02 RCW, the council adopts this ~~titlechapter~~ to assess impact fees for roads and parks. The provisions of this ~~titlechapter~~ shall be liberally construed in order to carry out the purposes of the council in establishing the impact fee program. [Ord. 01-0109 Ch. 1, § 1.]

~~18.100~~20.47.020

Definitions.

The following words and terms shall have the following meanings for the purposes of this ~~titlechapter~~, unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined pursuant to RCW 82.02.090, or given their usual and customary meaning.

A. "Accessory dwelling unit" means a dwelling unit that has been added onto, created within, or separated from a single-family detached dwelling for use as a complete independent living unit with provisions for cooking, eating, sanitation, and sleeping.

B. "Building permit" means an official document or certification which is issued by the building official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.

C. "Capital facilities plan" means the capital facilities plan element of a comprehensive plan adopted by the city of Kenmore pursuant to Chapter 36.70A RCW, and such plan as amended.

D. "City" means the city of Kenmore.

E. "Council" means the city council of the city of Kenmore.

F. "Department" means the department of community development.

G. "Development activity" means any construction, expansion, or change in the use of a building or structure that creates additional demand and need for public facilities.

H. "Development approval" means any written authorization from the city of Kenmore which authorizes the commencement of a development activity.

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I. "Director" means the director of the department of community development or the director's designee.

J. "Dwelling unit" means a single unit providing complete and independent living facilities for one or more persons, including permanent facilities for living, sleeping, eating, cooking, and sanitation needs.

K. "Encumbered" means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for public facilities.

L. "Feepayer" is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a land development activity which creates the demand for additional capital facilities, and which requires the issuance of a building permit. "Feepayer" includes an applicant for an impact fee credit.

M. "Gross floor area" means the total square footage of any building, structure, or use, including accessory uses.

N. "Hearing examiner" means the examiner who acts on behalf of the city in considering and applying land use regulatory codes as provided under this code. Where appropriate, "hearing examiner" also refers to the office of the hearing examiner.

O. "Impact fee" means a payment of money imposed by the city of Kenmore on development activity pursuant to this title as a condition of granting development approval in order to pay for the public facilities needed to serve new growth and development. "Impact fee" does not include a reasonable permit fee, an application fee, the administrative fee for collecting and handling school impact fees, or the cost of reviewing independent fee calculations.

P. "Impact fee account" or "account" means the account(s) established for each type of public facility for which impact fees are collected. The accounts shall be established pursuant to KMC 18.10020.47.080 and 18.10020.47.090, and comply with the requirements of RCW 82.02.070.

Q. "Independent fee calculation" means the road impact calculation, park impact calculation, and/or economic documentation prepared by a feepayer, to support the assessment of an impact fee other than by the use of the rates listed in Article II of this chapter, or the calculations prepared by the director where none of the fee categories or fee amounts in Article II of this chapter accurately describe or capture the impacts of the new development on public facilities.

R. "Interest" means the average interest rate earned in the last fiscal year by the city of Kenmore.

S. "ITE Land Use Code" means the classification code number assigned to a type of land use by the Institute of Transportation Engineers in the Sixth Edition of "Trip Generation".

T. "Low-income housing" means (1) an owner-occupied housing unit affordable to households whose household income is less than 80 percent of the King County median income, adjusted for household size, as determined by the United States Department of Housing and Urban Development (HUD), and no more than 30 percent of the household income is paid for housing expenses; or (2) a renter-occupied housing unit affordable to households whose income is less than 50 percent of the King County median income, adjusted for household size, as determined by HUD, and no more than 30 percent of the household income is paid for housing expenses (rent and an appropriate utility allowance). In the event that HUD no longer publishes median income figures for King County, the county may use or determine such other method as it may choose to determine the King County median income, adjusted for household size. The director will make a determination of sales prices or rents that meet the affordability requirements of this

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section. An applicant for a low-income housing exemption may be a public housing agency, a private nonprofit housing developer, or a private developer.

U. "Occupancy permit" means the permit issued by the city of Kenmore where a development activity results in a change in use of the pre-existing structure, or the creation of a new use where none previously existed.

V. "Open space" means for the purposes of this chapter undeveloped public land that is permanently protected from development (except for the development of trails or other passive public access or use).

W. "Owner" means the owner of record of real property, or a person with an unrestricted written option to purchase property; provided, that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.

X. "Parks" means parks, open space, and recreational facilities, including but not limited to ball fields, golf courses, athletic fields, soccer fields, swimming pools, tennis courts, volleyball courts, neighborhood parks, community parks, and open space.

Y. "Parks study" means the "Rate Study for Impact Fees for Parks," city of Kenmore, dated May 15, 2001.

Z. "Planned unit development" or "PUD" shall have the same meaning as set forth in this code.

AA. "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development or users of the project, and are not system improvements. No improvement or facility included in a capital facilities plan adopted by the council shall be considered a project improvement.

BB. "Public facilities" means the following capital facilities owned or operated by the city of Kenmore or other governmental entities: (1) public streets and roads; and (2) publicly owned parks, open space, and recreation facilities.

CC. "Residential" or "residential development" means all types of construction intended for human habitation. This shall include, but is not limited to, single-family, duplex, triplex, and other multifamily development.

DD. "Road" means a right-of-way which enables motor vehicles, transit vehicles, bicycles and pedestrians to travel between destinations, and affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, street, and other thoroughfare, except an alley.

EE. "Roads study" means the "Rate Study for Impact Fees for Roads," prepared for the city of Kenmore by Henderson, Young & Company, dated December 2, 2008.

FF. "Significant past tax payment" means taxes exceeding five percent of the amount of the impact fee, and which were paid prior to the date the impact fee is assessed and were earmarked or proratable to the same system improvements for which the impact fee is assessed.

GG. "Square footage" means the square footage of the gross floor area of the development.

HH. "State" means the state of Washington.

II. "System improvements" means public facilities that are included in the city of Kenmore's capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements. [Ord. 08-0292 § 3; Ord. 03-0184 § 3; Ord. 01-0109 Ch. 1, § 2.]

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~~18.10020.47.030~~

Assessment of impact fees.

A. The city shall collect impact fees, based on the rates in Article II of this chapter, from any applicant seeking development approval from the city for any development activity within the city, where such development activity requires the issuance of a building permit. This shall include, but is not limited to, the development of residential, commercial, retail, office, and industrial land, and includes the expansion of existing uses that creates a demand for additional public facilities, as well as a change in existing use that creates a demand for additional public facilities.

B. For a change in use of an existing building or dwelling unit, including any alteration, expansion, replacement or new accessory building, the impact fee shall be the applicable impact fee for the land use category of the new use, less any impact fee previously paid for the land use category of the prior use. If no impact fee was paid for the prior use, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use.

C. For mixed use developments, impact fees shall be imposed for the proportionate share of each land use based on the applicable measurement in the impact fee rates set forth in Article II of this chapter.

D. Applicants seeking an occupancy permit for a change in use shall be required to pay a road impact fee if the change in use triggers review under the State Environmental Policy Act, this code, or increases the trip generation by more than five percent or 10 peak hour trips.

E. Impact fees shall be assessed at the time the complete application for a building permit or occupancy permit is submitted for each unit in the development, using the impact fee rates then in effect. Except as provided in subsection (I) of this section, impact fees shall be paid at the time the building permit is issued by the city. The city shall not accept an application for a building permit if final plat, PUD, or binding site plan approval is needed and has not yet been granted by the city. Furthermore, the city shall not accept an application for a building permit unless prior to submittal or concurrent with submittal, the feepayer submits complete applications for all other discretionary reviews needed, including, but not limited to, design review, the environmental determination, and the accompanying checklist.

F. Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to KMC ~~18.10020.47.050~~, shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to KMC ~~18.10020.47.050~~ setting forth the dollar amount of the credit awarded. Except as provided in subsection (I) of this section, impact fees, as determined after the application of appropriate credits, shall be collected from the feepayer at the time the building permit is issued for each unit in the development.

G. Where the impact fees imposed are determined by the square footage of the development, a deposit shall be due from the feepayer at the same time that a complete application for a building permit is submitted. The deposit shall be based on an estimate, submitted by the feepayer, of the size and type of structure which will be constructed on the property. In the absence of an estimate provided by the feepayer, the department shall calculate a deposit amount based on the maximum allowable density/intensity permissible on the property. If the final square footage of the development is in excess of the initial estimate, any difference will be due prior to the issuance of a certificate of occupancy or an occupancy permit, using the rate in effect at that time. The feepayer shall pay any such difference plus interest, calculated at the interest rate which the city of Kenmore then earns. If the final square footage is less than the initial estimate,

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the department shall give a credit for the difference, plus interest at the interest rate which the city of Kenmore then earns.

H. Except as provided in subsection (I) of this section, the department shall not issue the required building permit or occupancy permit unless and until the impact fees set forth in Article II of this chapter have been paid in the amount that they exceed exemptions or credits provided pursuant to KMC ~~18.10020.47.040~~ or ~~18.10020.47.050~~.

I. For the parcels located northwest of the intersection of Northeast 181st Street and 68th Avenue Northeast, as shown on the map attached to the ordinance codified in this subsection (Ord. 07-0273):

1. The road impact fees of subsections (E) and (F) of this section shall be paid in two installments, 25 percent at issuance of building permit and 75 percent at issuance of certificate of occupancy; and

2. The deposit of subsection (G) of this section for road impact fees shall be 25 percent of the estimate. [Ord. 07-0273 § 1; Ord. 01-0109 Ch. 1, § 3.]

~~18.10020.47.040~~

Exemptions.

A. Except as provided for below, the following shall be exempted from the payment of all impact fees:

1. Alteration of an existing nonresidential structure that does not expand the usable space or add any residential units;

2. Miscellaneous improvements, including, but not limited to, fences, walls, swimming pools, and signs;

3. Demolition or moving of a structure;

4. Expansion of an existing structure that results in the addition of 100 square feet or less of gross floor area;

5. Replacement of a structure with a new structure of the same size and use at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure. Replacement of a structure with a new structure of the same size shall be interpreted to include any structure for which the gross square footage of the building will not be increased by more than 100 square feet;

6. A change in use where the increase in trip generation is less than five percent or 10 peak hour trips;

7. Any building permit application that has been submitted to the city before 5:00 p.m. the business day before the effective date of this article and subsequently determined to be a complete application, based on the information on file as of the effective date of this article;

8. Permit applications for no more than 25 percent of the total low-income housing single-family dwelling units in any one project and regardless of whether such project is built in phases, to a maximum of 50 low-income housing single-family dwelling units in any one project and regardless of whether such project is built in phases, whether occupied by owners or renters; provided, that the owner of such low-income housing executes and records a covenant against the property for a period of 30 years guaranteeing that such dwelling units will continue to be used for low-income housing. In the event that the development is no longer used for low-income rental housing, the owner shall pay the city the impact fee from which the owner or any prior owner was exempt, plus interest at an annual rate of 10 percent. The lien shall run with the land and apply to subsequent owners for a period of 20 additional years; provided, however, that

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the city manager or designee shall retain the authority to increase the 25 percent threshold or the 50-unit maximum threshold provisions of this section if written findings are entered that the city can reasonably afford to pay the impact fees otherwise exempted and the proposed low-income housing units satisfy a particularly critical need. Any claim for an exemption for low-income owner-occupied housing must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

B. Repealed by Ord. 03-0184.

C. Any impact fees not collected from low-income housing pursuant to the exemption above shall be paid from public funds other than impact fee accounts.

D. The director shall be authorized to determine whether a particular development activity falls within an exemption identified in this section, in any other section, or under other applicable law. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in KMC ~~18.10020.47.070~~. [Ord. 03-0184 §§ 1, 2; Ord. 01-0109 Ch. 1, § 4.]

18.10020.47.050

Credits.

A. A feepayer can request that a credit or credits for impact fees be awarded to him/her for the total value of dedicated land, improvements, or construction provided by the feepayer. Credits will be given only if the land, improvements, and/or the facility constructed are:

1. Included within the capital facilities plan or would serve the goals and objectives of the capital facilities plan; and

2. At suitable sites and constructed at acceptable quality as determined by the city.

B. The director shall determine if requests for credits meet the criteria in subsection (A) of this section.

C. For each request for a credit or credits the director shall select an appraiser or the feepayer may select an independent appraiser acceptable to the director.

D. The appraiser must possess an MAI or other equivalent certification and shall not have a fiduciary or personal interest in the property being appraised. A description of the appraiser's certification shall be included with the appraisal, and the appraiser shall certify that he or she does not have a fiduciary or personal interest in the property being appraised.

E. The appraiser shall be directed to determine the total value of the dedicated land, improvements, and/or construction provided by the feepayer on a case-by-case basis.

F. The feepayer shall pay for the cost of the appraisal or request that the cost of the appraisal be deducted from the credit which the director may be providing to the feepayer, in the event that a credit is awarded.

G. After receiving the appraisal the director shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, the legal description of the site donated where applicable, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his or her agreement to the terms of the letter or certificate, and return such signed document to the director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 60 calendar days shall nullify the credit.

H. No credit shall be given for project improvements.

I. A feepayer can request that a credit or credits for impact fees be awarded to him/her for significant past tax payments. For each request for a credit or credits for significant past tax payments for park and road impact fees, the feepayer shall submit receipts and a calculation of

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past tax payments earmarked for or proratable to the particular system improvement. The director shall determine the amount of credits, if any, for significant past tax payments for park and road public facilities.

J. Any claim for credit must be made no later than 20 calendar days after the submission of an application for a building permit. The failure to timely file such a claim shall constitute a final bar to later request any such credit.

K. Determinations made by the director pursuant to this section shall be subject to the appeals procedures set forth in KMC 18.100.070. [Ord. 01-0109 Ch. 1, § 5.]

18.10020.47.060

Tax adjustments.

Pursuant to and consistent with the requirements of RCW 82.02.060, the Roads Study and Parks Study have provided adjustments for future taxes to be paid by the new development which are earmarked or proratable to the same new public facilities which will serve the new development. The impact fee rates in Article II of this chapter have been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund public improvements. [Ord. 01-0109 Ch. 1, § 6.]

18.10020.47.070

Appeals.

A. Any feepayer may pay the impact fees imposed by this title under protest in order to obtain a building permit. No appeal shall be permitted until the impact fees at issue have been paid.

B. Appeals regarding the impact fees imposed on any development activity may only be filed by the feepayer of the property where such development activity will occur.

C. The feepayer must first file a request for review regarding impact fees with the director, as provided herein:

1. The request shall be in writing on the form provided by the city;

2. The request for review by the director shall be filed within 14 calendar days of the feepayer's payment of the impact fees at issue. The failure to timely file such a request shall constitute a final bar to later seek such review;

3. No administrative fee will be imposed for the request for review by the director; and

4. The director shall issue his or her determination in writing.

D. Determinations of the director with respect to the applicability of the impact fees to a given development activity, the availability or value of a credit, or the director's decision concerning the independent fee calculation which is authorized in Article II of this chapter, or the fees imposed by the director pursuant to Article II of this chapter, or any other determination which the director is authorized to make pursuant to this title, can be appealed to the hearing examiner.

E. Appeals shall be taken within 14 calendar days of the director's issuance of a written determination by filing with the department a notice of appeal specifying the grounds thereof, and depositing the necessary fee, which is set forth in the existing fee schedules for appeals of such decisions. The director shall transmit to the office of the hearing examiner all papers constituting the record for the determination, including where appropriate, the independent fee calculation.

F. The hearing examiner shall fix a time for the hearing of the appeal, give notice to the parties in interest, and decide the same as provided in this code. At the hearing, any party may appear in person or by agent or attorney.

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G. The hearing examiner is authorized to make findings of fact regarding the applicability of the impact fees to a given development activity, the availability or amount of the credit, or the accuracy or applicability of an independent fee calculation. The decision of the hearing examiner shall be final, except as provided in this section.

H. The hearing examiner may, so long as such action is in conformance with the provisions of this titlechapter, reverse or affirm, in whole or in part, or may modify the determinations of the director with respect to the amount of the impact fees imposed or the credit awarded. [Ord. 01-0109 Ch. 1, § 7.]

18.10020.47.080

Establishment of impact fee accounts.

A. Impact fee receipts shall be earmarked specifically and deposited in special interest-bearing accounts.

B. There are hereby established two separate impact fee accounts for the fees collected pursuant to this title: the roads impact account and the parks impact account. Funds withdrawn from these accounts must be used in accordance with the provisions of KMC 18.10020.47.100 and applicable state law. Interest earned on the fees shall be retained in each of the accounts and expended for the purposes for which the impact fees were collected.

C. On an annual basis, the finance director shall provide a report to the council on each of the two impact fee accounts showing the source and amount of all monies collected, earned, or received, and the public improvements that were financed in whole or in part by impact fees.

D. Impact fees shall be expended or encumbered within six years of receipt, unless the council identifies in written findings extraordinary and compelling reason or reasons for the city to hold the fees beyond the six-year period. Under such circumstances, the council shall establish the period of time within which the impact fees shall be expended or encumbered. [Ord. 01-0109 Ch. 1, § 8.]

18.10020.47.090

Refunds.

A. If the city fails to expend or encumber the impact fees within six years of when the fees were paid, or where extraordinary or compelling reasons exist, such other time periods as established pursuant to KMC 18.10020.47.080, the current owner of the property on which impact fees have been paid may receive a refund of such fees. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first-in, first-out basis.

B. The city shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of such claimants. A potential claimant or claimant must be the owner of the property.

C. Owners seeking a refund of impact fees must submit a written request for a refund of the fees to the director within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later.

D. Any impact fees for which no application for a refund has been made within this one-year period shall be retained by the city and expended on the appropriate public facilities.

E. Refunds of impact fees under this section shall include any interest earned on the impact fees by the city.

F. When the city seeks to terminate any or all components of the impact fee program, all unexpended or unencumbered funds from any terminated component or components, including

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interest earned, shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the city shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail at the last known address of the claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the city, but must be expended for the appropriate public facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

G. The city shall also refund to the current owner of property for which impact fees have been paid all impact fees paid, including interest earned on the impact fees, if the development activity for which the impact fees were imposed did not occur; provided, that if the city has expended or encumbered the impact fees in good faith prior to the application for a refund, the director can decline to provide the refund. If within a period of three years, the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner can petition the director for an offset. The petitioner must provide receipts of impact fees previously paid for a development of the same or substantially similar nature on the same property or some portion thereof. In the case of park or fire impact fees, the director shall determine whether to grant an offset, and the determinations of the director may be appealed pursuant to the procedures in KMC 18.10020.47.070. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in KMC 18.10020.47.070. [Ord. 01-0109 Ch. 1, § 9.]

18.10020.47.100

Use of funds.

A. Pursuant to this title, impact fees shall:

1. Be used for public improvements that will reasonably benefit the new development; and
2. Not be imposed to make up for deficiencies in public facilities serving existing developments; and
3. Not be used for maintenance or operation.

B. Road impact fees may be spent for public improvements, including, but not limited to, planning, land acquisition, right-of-way acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, and any other expenses which can be capitalized.

C. Park impact fees may be spent for public improvements, including, but not limited to, planning for parks that will reasonably benefit the new development, land acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, and capital equipment pertaining to park facilities.

D. Impact fees may also be used to recoup public improvement costs previously incurred by the city to the extent that new growth and development will be served by the previously constructed improvements or incurred costs.

E. In the event that bonds or similar debt instruments are or have been issued for the advanced provision of public improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the new development. [Ord. 01-0109 Ch. 1, § 10.]

ATTACHMENT 3

~~18.10020.47.110~~

Review.

The fee rates set forth in Article II of this chapter may be reviewed and adjusted by the council as it deems necessary and appropriate in conjunction with the annual update of the capital facilities plan element of the city's comprehensive plan. The fee rates shall be adjusted 12 months after the effective date of this article, or 12 months after the most recent review by the council. The council may determine the amount of the adjustment and revise the fee rates set forth in Article II of this chapter. Absent such affirmative council adjustment, the adjustment shall be 100 percent of the Consumer Price Index-W for the Seattle area, for the most recent 12-month period prior to the date of the adjustment. Subsequent fee rate changes shall be as established in the city council's annual fee resolution. [Ord. 02-0147 § 1; Ord. 01-0109 Ch. 1, § 11.]

Article II. Rates

~~18.10020.47.120~~

Road impact fee.

The road impact fee rates in this section are generated the formula for calculating impact fees set forth in the Roads Study, which is incorporated herein by reference. Except as otherwise provided for independent fee calculations in KMC ~~18.10020.47.140~~, exemptions in KMC ~~18.10020.47.040~~, and credits in KMC ~~18.10020.47.050~~, all new developments in the city will be charged the road impact fee applicable to the type of development, in an amount imposed by the city council by resolution. [Ord. 02-0139 § 1; Ord. 01-0109 Ch. 2, § 1.]

~~18.10020.47.130~~

Park impact fee.

The park impact fee rates in this section are generated from the formula for calculating impact fees set forth in the Parks Study and the Parks and Recreation Master Plan, which are incorporated herein by reference. Except as otherwise provided for in KMC ~~18.10020.47.140~~, Independent fee calculations; KMC ~~18.10020.47.040~~, Exemptions; and KMC ~~18.10020.47.050~~, Credits, all new residential developments in the city will be charged the park impact fee applicable to the type of dwelling unit, in an amount imposed by the city council by resolution. [Ord. 03-0173 § 1; Ord. 02-0139 § 1; Ord. 01-0109 Ch. 2, § 2.]

~~18.10020.47.140~~

Independent fee calculations.

A. If in the judgment of the director, none of the fee categories or fee amounts set forth in KMC ~~18.10020.47.120~~ or ~~18.10020.47.130~~ accurately describe or capture the impacts of a new development on roads, parks or fire protection facilities, the department may conduct independent fee calculations and the director may impose alternative fees on a specific development based on those calculations. The alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

B. If a feepayer opts not to have the impact fees determined according to KMC ~~18.10020.47.120~~ or ~~18.10020.47.130~~, then the feepayer shall prepare and submit to the director an independent fee calculation for the development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made.

ATTACHMENT 3

C. Any feepayer submitting an independent fee calculation will be required to pay the city of Kenmore a fee to cover the cost of reviewing the independent fee calculation. The fee required by the city for conducting the review of the independent fee calculation shall be imposed by the city council by resolution, unless otherwise established by the director, and shall be paid by the feepayer prior to initiation of review.

D. While there is a presumption that the calculations set forth in the Roads Study and Parks Study are valid, the director shall consider the documentation submitted by the feepayer, but is not required to accept such documentation or analysis which the director reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the feepayer to submit additional or different documentation for consideration. The director is authorized to adjust the impact fees on a case-by-case basis based on the independent fee calculation, the specific characteristics of the development, and/or principles of fairness. The fees or alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

E. Determinations made by the director pursuant to this section may be appealed to the office of the hearing examiner as set forth in KMC ~~18.100~~20.47.070. [Ord. 02-0139 § 1; Ord. 01-0109 Ch. 2, § 3.]

Article III. Miscellaneous Provisions

~~18.100~~20.47.150

Existing authority unimpaired.

Nothing in this ~~title~~chapter shall preclude the city from requiring the feepayer or the proponent of a development activity to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or Chapter 58.17 RCW, governing plats and subdivisions; provided, that the exercise of this authority is consistent with the provisions of Chapters 43.21C and 82.02 RCW. [Ord. 01-0109 Ch. 2, § 3.]

~~18.35.170~~20.47.155

RecreationPark space in lieu of impact fee.

A. The payment of a parks impact fee, consistent with ~~Chapter 18.100 KMC~~this chapter shall be the preferred method of meeting ~~recreationpark~~ space requirements for all new development, except as follows:

B. At the discretion of the city, the fee payer may be able to receive credit towards their impact fee for land dedicated, improvements made or other construction completed for park purposes.

1. Such land improvements or construction completed shall be adjacent to other publicly owned land; or

2. Be within an area of the city designated within the city comprehensive plan as in need of park space; or

3. Would in some other way further the goals and objectives of the capital facilities plan or other city plans;

4. All such improvements shall be constructed at an acceptable quality as determined by the city. [Ord. 01-0109 Ch. III, § 4(A); Ord. 00-0097 § 1(A); Ord. 98-0026 §§ 1, 2 (KCC 21A.14.180).]

ATTACHMENT 3

Staff recommends that Section 20.50.010, School impact fees, be amended as follows:

20.50.010

School impact fees.

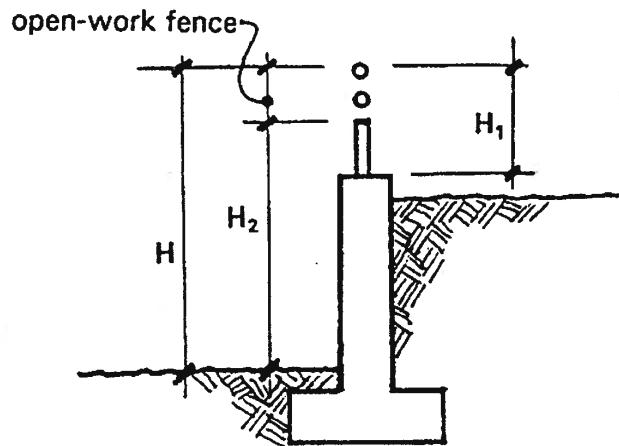
School impact fees are assessed and collected by the Northshore School District No. 417 in an amount established by ordinance for each new single-family dwelling unit and for each new multifamily dwelling unit. [Ord. 99-0058 § 1; Ord. 98-0020 § 1 (KCC 27.44.010).] Impact fees may be assessed and collected as long as the fees are used to fund capital and system improvements needed to serve the new development, and as long as the use of such fees is consistent with the requirements of Chapter 82.02 RCW and this chapter. Pursuant to Chapter 82.02 RCW, impact fees may also be used to recoup capital and system improvement costs previously incurred by a school district to the extent that new growth and development will be served by the previously constructed improvements or incurred costs. [Ord. 98-0026 §§ 1, 2 (KCC 21A.28.140).]

ATTACHMENT 4

Three illustrations would be revised as a result of the proposed code amendments, as follows:

1. Revised illustration to replace illustration in Section 18.30.040:

RETAINING WALL WITH FENCE IN SETBACK



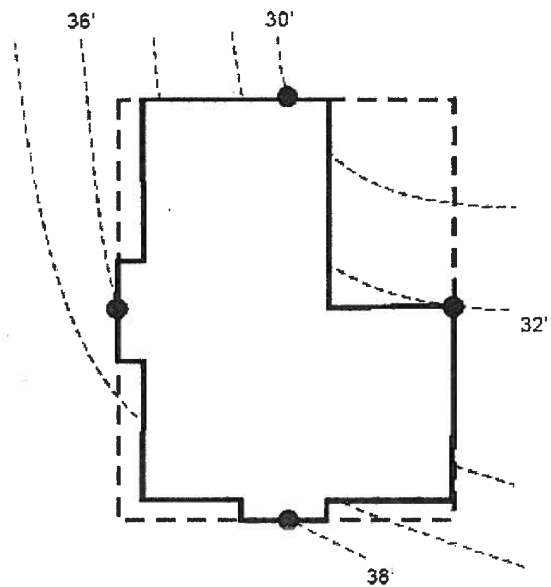
H maximum of 12' in R-1 through R-18, P and GC zones

H_1 maximum of 8' in all zones

H_2 maximum of 8' for wall plus solid-work fence in all zones

ATTACHMENT 4

2. Additional illustration to accompany illustration in Section 18.30.050:

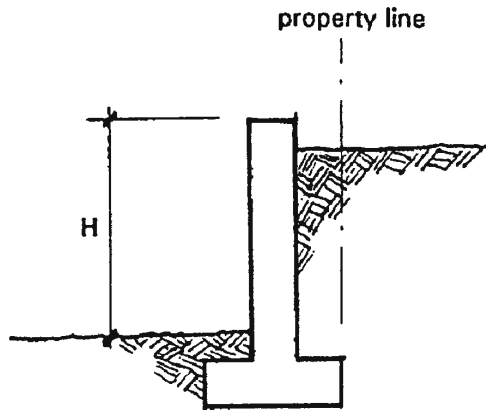


$$\text{Average Finished Grade} = \frac{30' + 32' + 36' + 38'}{4} = 34'$$

ATTACHMENT 4

3. Revised illustration to replace illustration in Section 18.30.230:

RETAINING WALL IN SETBACK



H maximum 6' in R-1– R18, P and GC zones

H maximum of 8' in R-24, R-48 and DR zones

H not to exceed building height requirement in
commercial and PSP zones

ATTACHMENT 5

CITY OF KENMORE, WASHINGTON

JUNE 28, 2011

PROPOSED DEVELOPMENT CODE AMENDMENTS (TITLE 17)

Amendments to Eliminate Redundancies & Inconsistencies	Amendments to Streamline & Simplify	Amendments to Clarify Code Interpretation & Authority	New Regulations to Clarify or Codify Existing Standards & Practices
Subdivision exemptions updated consistent with State Law (17.15.040, p.8)	Defined City Manager (17.10.067, p. 3) City (17.10.065 p.3), Department (17.10.100, p.4), and Development Engineer (17.10.110, p. 4)	New language on substantial change for subdivision and short plat revisions (17.20.030 and 17.20.060 pp. 15-16)	New standard for street signage (17.20.105, p.18)
Length of preliminary subdivision approval times updated consistent with State Law and Council action 2009 (17.20.020 and 17.20.040, p.15)	Short subdivision threshold increased from 4 to 9 lots as allowed by State Law (17.10.310 and 17.10.320, pp: 6-7)		New standard for street lighting (17.20.107, p.18)
Condominium procedures eliminated consistent with State Law (Chapter 17.35 pp. 28-29)	Removed application requirements and made reference to checklists (17.15.150, p.12, 17.25.022 p. 21, 17.25.030, p. 23)		New standard to address subdivision/short subdivision layout (17.20.120(C), p.18)
	Moved zero lot line development and clustered development standards from Title 18 to Title 17 (17.20.125 and 17.20.130 pp.18-19)		
	Added information about engineering permits (17.25.022 p. 21)		
	Require improvements to be installed (except		

Note: Page Numbers refer to Attachment 1 (Title 17) from the 6/13/11 Council Packet

VIIIA.

Continued Public Hearing to Receive Further Public Testimony Relating to Proposed Administrative

ATTACHMENT 5

Amendments to Eliminate Redundancies & Inconsistencies	Amendments to Streamline & Simplify	Amendments to Clarify Code Interpretation & Authority	New Regulations to Clarify or Codify Existing Standards & Practices
	street trees) prior to plat recording (17.25.024 and 17.25.030, pp. 22-23)		
	Sidewalk waiver for short plats eliminated (17.25.100, p.26)		
	Retitled boundary line adjustment chapter (Chapter 17.40, p. 29)		

Note: Page Numbers refer to Attachment 1 (Title 17) from the 6/13/11 Council Packet

VIIIA.

Continued Public Hearing to Receive Further Public Testimony Relating to Proposed Administrative

ATTACHMENT 5

CITY OF KENMORE, WASHINGTON

JUNE 28, 2011

PROPOSED DEVELOPMENT CODE AMENDMENTS (TITLE 18)

Amendments to Eliminate Redundancies & Inconsistencies	Amendments to Streamline & Simplify	Amendments to Clarify Code Interpretation & Authority	New Regulations to Clarify or Codify Existing Standards & Practices
Added family child-care home consistent with State Law (18.21.020, p. 119, for example)	Moved definitions from individual chapters into main definitions section (Chapter 18.20)	Added a general intent statement to give the City Manager the discretion and flexibility for administrative decisions (18.10.055, p. 4)	Added new language to clarify several terms: setbacks, site area, floor area ratio (18.20.2530, p. 70, 18.20.2750, p. 72, 18.20.1135, p. 43, and Chapter 18.30)
Water use standards eliminated (18.40.140 through 18.40.210, pp. 210-213)	Defined City Manager (18.20.468, p. 30), City (18.20.465, p. 30) and Department (18.20.680, p. 34)	Code interpretation process added (18.10.070, p. 4)	Added rockery standards for new zoning districts (18.30.040, p. 189)
Four P-Suffix development conditions eliminated (18.47.030, p. 249)	Eliminated reference to Standard Industrial Classifications in use tables (Chapters 18.21 through 18.28A, pp. 84-176)		Added new height survey requirement (18.30.050, p. 191)
Eliminated processes for establishing new P-Suffixes or special district overlays (Chapter 18.82)	Reorganized use tables for R1-R48, NB and RB to be consistent with the format for newer zones such as DC, CB (Chapters 18.21 through 18.28A, pp. 84-176)		Added new light and glare standards (18.30.070, p. 192)
Site Plan Review not required if master plan approved (18.120.040(D), p. 395)	Reviewed processes for bed & breakfast guesthouses (18.21.020, p. 111, 18.21.040, p. 124, 18.22.010, p. 137,		Added new recreational vehicle standards (18.30.155, p. 195)

Note: Page Numbers refer to Attachment 2 (Title 18) from the 6/13/11 Council Packet

ATTACHMENT 5

Amendments to Eliminate Redundancies & Inconsistencies	Amendments to Streamline & Simplify	Amendments to Clarify Code Interpretation & Authority	New Regulations to Clarify or Codify Existing Standards & Practices
	and 18.26.020, p. 161)		
	Increased height allowance for fence height from 6' to 8' (18.30.040, p. 189)		Added new allowance for some structures in rear yards in single-family zones (18.30.230(B), (O) and (P), pp. 196-197)
	Revised open space requirements (18.30.130, p.193)		Added language to clarify guest parking requirements for townhomes and college/university use (Chapter 18.40, p. 215 and p. 217)
	Trail corridor easement can count towards recreational open space (18.30.260, p. 202)		Added standards for wayfinding signs, private temporary banners and sign standards for Public/Semi-Public, Parks and Golf Course zone (Chapter 18.42, pp. 235 and 239)
	Added a new table to clarify general landscape standards (Chapter 18.35, p. 205)		Incorporated design standard interpretations (18.52.280 and 18.52.300, pp. 280-281)
	Added a new table and map to show the applicability of design standards (18.52.070, p. 263)		Added new critical area mitigation inspection requirement (18.55.220, p. 295)
	Added administrative departure from design standards (18.52.075(B), p. 266)		Incorporated interpretation for geologically hazardous areas (18.55.650, p. 311)
	Provided allowance for off-site tree replacement (18.57.080, p.322)		Animal regulations re-written for clarity and consistency (Chapter 18.70, pp. 339-345)

Note: Page Numbers refer to Attachment 2 (Title 18) from the 6/13/11 Council Packet

ATTACHMENT 5

Amendments to Eliminate Redundancies & Inconsistencies	Amendments to Streamline & Simplify	Amendments to Clarify Code Interpretation & Authority	New Regulations to Clarify or Codify Existing Standards & Practices
	Moved Accessory Dwelling Unit standards to stand-alone section (18.73.100, p. 346)		Added new standard prohibiting roosters (18.70.020, p. 339)
	New site plan review process to replace CSDP process (18.90, p. 370 and 18.105, p. 387)		
	Moved components of review procedures in Chapter 18.95 into other appropriate sections or eliminated (Chapter 18.95)		
	Moved impact fee discussion from Title 18 to Title 20 (old 18.100, p. 355)		
	Consolidated temporary use discussion. Uses that do not meet development standards can be temporary uses (18.100.100, p. 367)		
	Moved master plan discussion from Title 19 to Title 18 (Chapter 18.120)		
	Eliminated reference to City's tree protection professional throughout Title 18		

Note: Page Numbers refer to Attachment 2 (Title 18) from the 6/13/11 Council Packet

ATTACHMENT 5

CITY OF KENMORE, WASHINGTON

JUNE 28, 2011

PROPOSED DEVELOPMENT CODE AMENDMENTS (TITLE 19)

Amendments to Eliminate Redundancies & Inconsistencies	Amendments to Streamline & Simplify	Amendments to Clarify Code Interpretation & Authority	New Regulations to Clarify or Codify Existing Standards & Practices
Comprehensive plan discussion eliminated (Chapter 19.15, pp. 7-10)	Defined City Manager (19.10.035, p. 4), City (19.10.030, p. 4) and Department (19.10.060, p. 4)	Updated hearing examiner authorities (Chapter 19.30, pp. 35-44)	Added language about cancellation of permit applications for inactivity (19.25.083, p. 31)
Critical aquifer recharge area standards eliminated (19.40, p. 59)	Revised some land use decision processes, including design review, temporary use and communication facilities (19.25.020 Exhibit A, p. 22)		Eliminated specific permit timelines; all subject to 120 days (19.25.100, p. 33)
	Preliminary subdivision or short subdivision revisions and short plat alterations with no substantial changes become a Type 1 process (19.25.020 Exhibit A, p. 22)		Added State citations to Environmental Procedures section and clarified procedures (Chapter 19.35, pp. 45-60)
	Updated preapplication meeting section (19.25.030, p. 23)		
	Removed application requirements and made reference to checklists (19.25.040, p. 24)		
	Eliminated posted notice for engineering plans (19.25.065, p. 30)		

Note: Page numbers reference Attachment 3 (Title 19) from the 6/13/11 Council packet

VIIIA.

Continued Public Hearing to Receive Further Public Testimony Relating to Proposed Administrative

ATTACHMENT 5

Amendments to Eliminate Redundancies & Inconsistencies	Amendments to Streamline & Simplify	Amendments to Clarify Code Interpretation & Authority	New Regulations to Clarify or Codify Existing Standards & Practices
	Limited mailing of Notice of Decision to active participants (19.25.090, pp. 32-33)		
	Increased SEPA thresholds as allowed by State Law (19.35.060, pp. 49-50)		
	Added calendar days to all standards		

Note: Page numbers reference Attachment 3 (Title 19) from the 6/13/11 Council packet

VIIIA.

Continued Public Hearing to Receive Further Public Testimony Relating to Proposed Administrative

ATTACHMENT 6

The City Council will consider amendments to Chapter 1.20, Code Enforcement, at the July 11, 2011 Council meeting. If those amendments are approved, staff recommends additional changes to Chapter 18.125, Code Enforcement, and Chapter 19.30, Hearing Examiner, to ensure consistency and eliminate redundancy. The 5/23/11 DRAFT amendments would be modified as follows:

Title 18

Revised sections:

Chapter 18.125

ENFORCEMENT

Sections:

- 18.125.010 Purpose.
- 18.125.020 Authority and application.
- ~~18.125.030 Permits.~~
- 18.125.040 Violations defined.
- 18.125.050 Permit suspension, revocation or modification.
- 18.125.060 Initiation of revocation or modification proceedings.

18.125.010

Purpose.

The purpose of this chapter is to promote compliance with this title by establishing enforcement authority, defining violations, and setting standards for initiating the procedures set forth in Chapter 1.20 KMC, when violations of this title occur. [Ord. 98-0026 §§ 1, 2 (KCC 21A.50.010).]

18.125.020

Authority and application.

The *city manager* is authorized to enforce the provisions of this code, any implementing administrative rules, administration, and approval conditions attached to any land use approval, through revocation or modification of permits, or through the enforcement, penalty and abatement provisions of Chapter 1.20 KMC. [Ord. 98-0026 §§ 1, 2 (KCC 21A.50.020).]

18.125.030

Permits.

~~All home businesses, home industries, accessory dwelling units, changes of use, additions to a noneconforming structure, or changes in ownership or operation of a noneconforming structure or use shall apply for and receive a city issued zoning permit, which shall set forth conditions of operation and ensure appropriate zoning. The city manager shall be responsible for determining when a zoning permit is required and how a zoning permit shall be processed in conjunction with other permits that may be required. The fee for a zoning permit shall be imposed by the city council by resolution. [Ord. 02-0139 § 1; Ord. 99-0052 § 2; Ord. 98-0026 § 13.]~~

18.125.040

Violations defined.

No building permit or land use approval in conflict with the provisions of this title shall be issued. Structures or uses which do not conform to this title, except legal *nonconformances* specified in Chapter 18.100 KMC and approved *variances*, are violations subject to the enforcement, penalty and abatement provisions of Chapter 1.20 KMC, including but not limited to:

- A. Establishing a *use* not permitted in the zone in which it is located;

ATTACHMENT 6

B. Constructing, expanding or placing a *structure* in violation of *setback*, height and other dimensional standards in this title;

C. Establishing a permitted *use* without complying with applicable development standards set forth in other titles, ordinances, rules or other laws, including but not limited to, road construction, surface water management, the Fire Code, and rules of the department of public health;

D. Failing to carry out or observe conditions of land use or permit approval, including contract development standards;

E. Failing to secure required land use or permit approval prior to establishing a permitted *use*; and

F. Failing to maintain *site* improvements, such as *landscaping*, parking or drainage control facilities as required by this code or other *city* ordinances. [Ord. 98-0026 §§ 1, 2 (KCC 21A.50.030).]

18.125.050

Permit suspension, revocation or modification.

A. ~~Permit suspension, revocation or modification shall be carried out through the procedures set forth in Chapter 1.20 KMC.~~ Any permit, *variance*, or other land use approval issued by the *city* pursuant to this title may be suspended, revoked or modified on one or more of the following grounds:

1. The approval was obtained by fraud;
2. The approval was based on inadequate or inaccurate information;
3. The approval, when given, conflicted with existing laws or regulations applicable thereto;
4. An error of procedure occurred which prevented consideration of the interests of persons directly affected by the approval;
5. The approval or permit granted is being exercised contrary to the terms or conditions of such approval or in violation of any statute, law or regulation;
6. The *use* for which the approval was granted is being exercised in a manner detrimental to the public health or safety;
7. The holder of the permit or approval interferes with the *city manager* or any authorized representative in the performance of his or her duties; or
8. The holder of the permit or approval fails to comply with any notice and order issued pursuant to Chapter 1.20 KMC.

B. Authority to revoke or modify a permit or land use approval shall be exercised by the decisionmaker, as described in KMC 19.25.020.

18.125.060

Initiation of revocation or modification proceedings.

A. The *city manager* may suspend any permit, *variance* or land use approval issued by any *city* issuing agency and processed by the *department* pending its revocation or modification, or pending a public hearing on its revocation or modification;

B. The issuing agency may initiate proceedings to revoke or modify any permit or land use approval it has issued; and

C. Persons who are aggrieved may petition the issuing agency to initiate revocation or modification proceedings, and may petition the *city manager* to suspend a permit, *variance* or land use approval pending ~~a public hearing on~~ consideration of its revocation or modification. [Ord. 98-0026 §§ 1, 2 (KCC 21A.50.050).]

Title 19

Revised section

Chapter 19.30

HEARING EXAMINER

19.30.070

Appeals.

A. The hearing examiner shall receive and examine available information, conduct open record public hearings and prepare records and reports thereof, and issue final decisions, including findings and conclusions, based on the issues and evidence in the record, which shall be appealable to superior court, or to other designated authority in the following cases:

1. Appeals of all Type 2 land use decisions with the exception of appeals of shoreline permits including shoreline variances and conditional uses which are appealable to the State Shoreline Hearings Board;
2. Appeals from ~~citations~~, notices of violation ~~and orders and stop work orders~~ issued pursuant to Chapter 1.20 KMC;
3. Appeals from decisions regarding the abatement of a nonconformance;
4. Appeals from decisions of the *city manager* on requests for rate adjustments to surface and stormwater management rates and charges;
5. Appeals from police department seizures and intended forfeitures, when properly designated by the chief law enforcement officer of that department as provided in RCW 69.50.505;
6. Appeals from notices and certifications of junk vehicles to be removed as a public nuisance as provided in KMC Title 18;
7. Appeals from the *department's* final decisions regarding transportation concurrency, impact fees and intersection standards provisions of Chapter 12.75 KMC;
8. Appeals under KMC Chapter 19.35 (the State Environmental Policy Act – SEPA);
9. Appeals of decisions for the licensing of adult cabarets and adult retail businesses;
10. Appeals from written interpretations of the zoning code under KMC 18.10.070;
11. Appeals of flood hazard area boundaries under KMC 18.55.710(D);
12. Appeals from a preliminary determination that a proposed development is not permissible under KMC 19.25.030; and
13. Other appeals which the *council* may prescribe by ordinance.

B. The hearing examiner's decision may be to grant or deny the application or appeal, or the hearing examiner may grant the application or appeal with such conditions, modifications and restrictions as the hearing examiner finds necessary.

C. The process for appeals shall be as specified in this chapter, unless otherwise described in the specific appeals provisions of other chapters of the KMC, including KMC Chapter 1.20, Code Enforcement.

ATTACHMENT 7

The proposed Title 18 amendments (5/23/11 DRAFT) included updated language from the Shoreline Master Program (SMP) approved by Council last September based on the assumption that final approval of the SMP by the Department of Ecology (Ecology) and the City would occur prior to adoption of the code amendments. The SMP is still under review by Ecology, however, so the SMP amendments have not yet received their final approval. For this reason, staff recommends that the updated SMP language be removed from the code amendment package, as, for example, code citations are not accurate. The updated SMP language would then be reincorporated into the code at the time of final SMP approval. At the time of final SMP approval, staff will be recommending that Section 19.15.040 be eliminated altogether (rather than revised as was done with SMP adoption in September), as has been done for the rest of Chapter 19.15.

The 5/23/11 DRAFT amendments would be modified for these changes as follows:

Title 18

Revised sections:

18.55.030

Relationship to other regulations.

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 ~~or conditional use~~ permits, ~~shoreline variances~~, the Washington State Department of Fish and Wildlife *hydraulic project approval* (HPA), Army Corps of Engineers *Section 404 permits*, and National Pollution Discharge Elimination System (NPDES) permits). The applicant is responsible for complying with these requirements, apart from the process established in this chapter. [Ord. 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, ~~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. [Ord. 06-0244 § 59 (Exh. 1).]

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.~~

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~~

ATTACHMENT 7

~~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.~~

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.~~

18.55.180

Exception – Reasonable use.

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

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 meets the use and development requirements of the Kenmore Shoreline Master Program may be allowed.~~

Title 19

Revised sections:

Chapter 19.15

COMPREHENSIVE PLAN

Sections:

19.15.040 Shoreline management master program.

19.15.040

Shoreline management master program.

The policies, objectives and goals of the shorelines management master program, are adopted as an addendum to the comprehensive plan for the city of Kenmore. As an addendum to the comprehensive plan, such policy statement constitutes the official policy of the city of Kenmore regarding areas of the city subject to shoreline management jurisdiction. [Ord. 98-0027 §§ 1, 2 (KCC 20.12.200).]

ATTACHMENT 7

19.25.020

Classifications of land use decision processes.

Exhibit A LAND USE DECISION TYPES

TYPE 2	Decision by <i>city manager</i> ; appealable to <i>hearing examiner</i> ; no further administrative appeal ¹	Home industry; short subdivision; preliminary short subdivision revision; short plat alteration; zoning variance; conditional use permit; shoreline substantial development permit; shoreline variance; shoreline conditional use permit ; site plan review for uses allowed by zone; communication facilities permit under KMC Chapter 18.60; 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.
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¹ ~~Decisions on shoreline variance and shoreline conditional use permits require approval by the Department of Ecology.~~ All shoreline permits, including shoreline variances and conditional uses, are appealable to the State Shorelines Hearings Board and not to the *hearing examiner*.

Staff also recommends retaining existing language in Chapter 18.35 regarding street trees that was originally shown in the 5/23/11 DRAFT as being moved to Title 12. As currently scheduled, revised street standards that would address street tree requirements will not be in front of the City Council for several months.

The 5/23/11 DRAFT amendments would be modified for this change as follows:

Revised sections:

18.35.045

Landscaping -- General requirements.*

*See KMC Title 12 for *street tree* requirements.

18.35.050

Landscaping -- Street frontage trees for single-family subdivisions.

E. For single-family subdivisions:

1A. Trees shall be planted at the rate of one tree for every 40 feet of frontage along a neighborhood collector street or arterial street;

2B. The trees shall be:

a. Located within the street right-of-way if permitted by the custodial state or local agency city;

b. No more than 20 feet from the street right-of-way line if located within a lot;

c. Maintained by the adjacent landowner unless part of a city maintenance program; and

d. A species approved by the city if located within the street right-of-way and compatible with overhead utility lines;

ATTACHMENT 7

3C. The trees may be spaced at irregular intervals to accommodate sight distance requirements for driveways and intersections.



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 *DB*
Lauri Anderson, Senior Planner *WA*

DATE: July 15, 2011

SUBJECT: Public Comment on Draft Ordinance 11-0329 for Adoption of
Administrative Amendments to Title 17 (Land Division), Title 18 (Zoning)
and Title 19 (Planning Policies and Procedures) of the Municipal Code

On July 13, 2011, staff held a public workshop on the proposed development code amendments. Notice was sent to the interested parties lists for the Planning Commission, Downtown Task Force, and City Council, as well as to participants in the city's Development Review Team process and the Master Builders. Detailed information was provided on the city's website. Dennis DePape was the only attendee at the workshop.

To date, staff has received 10 e-mails and written comments about the project (see attachments 2 through 10).

All public comments, along with a staff response, are summarized in Attachment 1. After reviewing the public comments, staff does not recommend any changes to the draft ordinance.

Proposed amendments to development regulations fall into the following four categories: amendments to eliminate redundancies and inconsistencies in the current code; amendments to streamline and simplify; amendments to clarify code interpretation and authority; and amendments that clarify or codify existing standards and practices. The intent was not to substantively rewrite the code or revise the policy content of the development standards. The intent was to achieve a consistent and streamlined set of development regulations and identify a list of potential future more substantive amendments to the municipal code.

Staff has identified a list of potential future amendments (this list was provided to Council as part of the 6/13/11 Council agenda packet). Several of the attached public comments suggest amendments which are more substantive and would likely require additional policy discussion by Council (for example, amendments to critical area regulations and landscape regulations). The staff response in Attachment 1 notes that the suggested amendments will be added to the list of potential future code amendments.

Memo to Fred Stouder
Page 2
July 15, 2011

Attachments

- Attachment 1: Summary Table of Public Comment
- Attachment 2: E-mail from Alex Soldano dated June 16, 2011
- Attachment 3: Master Builders King County Housing Issues, Independence Day Edition, dated July 1, 2011
- Attachment 4: E-mail from Karen Walter, dated July 5, 2011
- Attachment 5: E-mail from Andrew Bauer, dated July 6, 2011, regarding communication with Scott Jenkins
- Attachment 6: E-mail from Laura Brent, dated July 6, 2011
- Attachment 7: E-mail from Dan Moehrke, dated July 8, 2011
- Attachment 8: E-mails from Ann Hurst, dated July 7 and July 10, 2011
- Attachment 9: E-mail from Jim Howard, dated July 12, 2011
- Attachment 10: E-mail from Sherry and Stan Isenhath, dated July 13, 2011

PUBLIC COMMENTS

Commenter	Comment	Staff Response
Alex Soldano (e-mail)	Allow backyard cottages or detached accessory units in single-family zones	Backyard cottages and detached accessory units are permitted by the existing code on lots 10,000 sq. ft. in size or greater. Consideration of this issue goes beyond the scope of the current project. Staff recommends deferring further discussion and adding to a list of potential future code amendments.
Master Builders (King County Housing Issues publication)	Welcome changes resulting in a more manageable code and the modification of short plats from 4 to 9 lots	Comments noted.
Karen Walter, Muckleshoot Indian Tribe (e-mail regarding SEPA determination for the project)	Retain 18.05.020, Notice to Tribes, language	Staff eliminated this language as 19.25.060.E already requires that notices of application be sent to affected tribes. Ms. Walter's interpretation of the existing code section is that the City would send notice of every action (whether formal public notice is required or not) to the Muckleshoot Tribe. This has not been done in practice and staff does not support this special notice.
	Agree with changes to 18.20.2900, definition of stream	Comment noted.
	Amend 18.20.3082, definition of tree	Consideration of this issue goes beyond the scope of the current project. Staff recommends deferring further discussion and adding to a list of potential future code amendments.
	Why removing irrigation water budget standards?	This code section has not been used or enforced by the city since incorporation. Staff recommends deferring further discussion and revisiting the topic, if desired, with future code amendments.
	Stream classifications should be changed	Consideration of this issue goes beyond the scope of the current project. Staff recommends deferring further discussion and adding to a list of potential future code amendments.
	Chapter 18.55 should restrict future piping of streams	Consideration of this issue goes beyond the scope of the current project. Staff recommends deferring further discussion and adding to a list of potential future code amendments.
	City should encourage native trees to the fullest extent possible	Consideration of this issue goes beyond the scope of the current project. Staff recommends deferring further discussion and

Scott Jenkins (e-mail and telephone call)	Should be able to place garage in rear yard in R4 and R6 zones, 18.30.230 (O) and (P)	adding to a list of potential future code amendments. Council action in December 2008 increased the rear yard setback in the R4 and R6 zones to provide more open space between lots. While staff is recommending allowances for small structures in this rear yard, staff did not recommend allowing garage structures in the rear yard as this seems to conflict with the Council's 2008 action. Staff recommends deferring further discussion and adding to a list of potential future code amendments.
Laura Brent, representing Northshore School District (e-mail)	What is the process for approving a Master Plan? (Chapter 18.120)	A Master Plan required by the comprehensive plan would be a Type 5 land use decision (hearing and recommendation by Planning Commission; decision by City Council). Master Plans required or authorized by zoning for non-city-owned property in the Golf Course or Public/Semi-Public zone (most schools) would be a Type 4 land use decision (hearing and recommendation by Hearing Examiner; decision by City Council).
Dan Moehrke (e-mail)	18.30.050. Word "land" should be added between licensed and surveyor (or licensed eliminated)	Staff would support adding "land" between licensed and surveyor, but does not feel that this change is critical.
	17.20.050.B Should this section refer to 9 lots?	This section should not refer to 9 lots. It is modeled after RCW 58.17.060 which sets the threshold at 4 lots.
	17.15.130A. and B. Does the city have information about survey points?	Both the engineering staff and the Building Official have reviewed these code sections about surveys and are comfortable that they adequately address the issue. There is an allowance to use an alternate benchmark if a city benchmark does not exist within 1/2 mile. A WSDOT or NUD benchmark may be an approved alternate.
	17.10.320. A subdivision can be less than 10 lots in some instances (for example using 17.20.050.B), so the lower limit of the threshold should be eliminated.	A subdivision process is required for fewer than 10 lots in some circumstances. However, removing the 10-lot threshold would confuse the distinction between a short subdivision and a subdivision. Although the language being modified is preexisting, an exception could be written into the definition to describe circumstances such as in 17.20.050.B. Staff does not believe this change is critical.

Ann Hurst (2 e-mails)	Increasing short plats from 4 to 9 lots and allowing additional structures in rear yards raises flooding issues and increases slide potential (17.10.310 and 18.30.230 (O) and (P)).	The review standards for short plats and long plats are almost identical. In cases where they differ, staff has modified language to keep the 4-lot threshold (see 17.20.070, for example). A different review process will not affect the development standards for a project. An applicant would still have to comply with critical area regulations, for example. The additional structures proposed for the 20' rear yard in the R4 and R6 zones are quite small (garden sculpture, landscape water features, trellises, children's play structures, one storage shed not exceeding 200 sq.ft., and arbors).
	Staff should not be doing code interpretation	Comment noted.
	An independent consultant should review staff work	Comment noted.
	A survey should be taken of residents	This purpose of the development code amendment project is to eliminate redundancies and inconsistencies in the current code, streamline and simplify, specify code interpretation and decision-making authority, and include new regulations for clarity. The intent was not to substantively rewrite the code or revise the policy content of the development standards. A survey would be more appropriate in the context of a Comprehensive Plan update or during consideration of a significant policy change.
Jim Howard (e-mail)	Public needs more time to review	Comment noted.
	Generally, the code updates look good	Comment noted.
	Landscape standards should be modified and the landscape maintenance provisions should be reviewed.	Consideration of these issues goes beyond the scope of the current project. Staff recommends deferring further discussion and adding to a list of potential future code amendments.
	Need stronger standards for landscape irrigation and soil preparation	Consideration of these issues goes beyond the scope of the current project. Staff recommends deferring further discussion and adding to a list of potential future code amendments.
	Pruning standards should prohibit topping	Consideration of this issue goes beyond the scope of the current project. Staff recommends deferring further discussion and adding to a list of potential future code amendments.

Dennis DePape (workshop attendee)	Standards for geologically hazardous areas should focus on public safety rather than slope protection. For example, should be able to reduce minimum 10' buffer to 0' if supported by geotechnical engineer. Should be able to completely regrade a steep slope to make it safer.	Current standards focus on preservation, rather than alteration, of areas identified as landslide hazard areas. Consideration of this issue goes beyond the scope of the current project. Staff recommends deferring further discussion and adding to a list of potential future code amendments.
	How are disputes between geotechnical engineers and/or city reviewers resolved? This process should be added to the code.	Consideration of this issue goes beyond the scope of the current project. Staff recommends deferring further discussion and adding to a list of potential future code amendments.
	New language in 18.55.650.11 restricts regrading and would be difficult to administer.	Staff added new language to this section to clarify the intent. The existing framework for addressing geologically hazardous areas is one of preservation of steep slopes. This section provides an exception in cases where steep slopes were created as a result of permitted activities. For example, cutting into a gentle slope to improve a roadway may result in steeper slopes that could be classified as landslide hazard areas by definition (more than 40% slope). The proposed language clarifies that this exception to the rules applies only if the pre-existing slope prior to the grading was less than 40%.
Sherry and Stan Isenhath (e-mail)	Concerned about rezoning to increase density	None of the proposed amendments would increase development densities. As Dr. Curtis points out in his response to the Isenhaths, "a short plat and a long plat must obey the same density and zoning laws." The change being proposed is that a short plat process would now be possible for 9 lots or less (administrative process with an appeal to the Hearing Examiner), while a subdivision at 10 lots or more would go before the Hearing Examiner for a decision, with the appeal going to King County Superior Court.
	A survey for public input is needed	This purpose of the development code amendment project is to eliminate redundancies and inconsistencies in the current code, streamline and simplify, specify code interpretation and decision-making authority, and include new regulations for clarity. The

		intent was not to substantively rewrite the code or revise the policy content of the development standards. A survey would be more appropriate in the context of a Comprehensive Plan update or during consideration of a significant policy change.
--	--	--

Lauri Anderson

From: alexander soldano [alexdsoldano@gmail.com]
Sent: Thursday, June 16, 2011 5:41 PM
To: Lauri Anderson
Subject: Zone Code Changes

Miss Anderson,

I have been following the zone code improvement process and would like to thank you for your work throughout this process. One change that I have specifically noted is the possible new allowances for structures in rear yards of single-family zones. In the amended code revisions that I read, I was given the impression that the change grants only very specific and small allowances of structures. Is there any intention in possibly allowing backyard cottages or detached accessory dwelling units as a permitted use in single-family zones? If not, do you anticipate this allowance as a potential area of discussion within council during the amendment process?

Thank you very much,

Alex Soldano

Lauri Anderson

From: Nancy Ousley
Sent: Friday, July 01, 2011 5:06 PM
To: Debbie Bent; Frederick Stouder; Lauri Anderson; Bryan Hampson
Subject: FW: King County Housing Issues for July 1st, 2011

This is a good message from the Master Builders on the Code Revision project!

NANCY K. OUSLEY
ASSISTANT CITY MANAGER
CITY OF KENMORE
425.398.8900
206.604.6217 cell

From: Doug Levy [mailto:levy4@msn.com]
Sent: Friday, July 01, 2011 11:18 AM
To: Nancy Ousley
Subject: FW: King County Housing Issues for July 1st, 2011

Do you see these? I somehow got on Garrett's list several years back (through my South County cities) and send my folks stuff when it's critical, complimentary of them, etc.

Doug Levy
Outcomes By Levy
(425)922-3999 -- Office/Cell
Levy4@msn.com

From: Garrett Huffman [mailto:ghuffman@mbaks.com]
Sent: Friday, July 01, 2011 10:56 AM
To: David Hoffman
Subject: King County Housing Issues for July 1st, 2011

King County Housing Issues, Independence Day Edition

Kenmore Set to Update, Shorten Code

The city of Kenmore is updating and reworking the codes it has operated under since incorporation over a decade ago. Upon its incorporation, Kenmore adopted the existing King County code, which has proven to be more cumbersome as the city grows and changes. Association members should welcome changes that include a code that is much more manageable from a sheer size consideration, and the modification of short plats, which currently are limited to four lots. Under the proposed changes, short plats would increase to nine lots. The city council has set a public hearing on this issue for Monday, July 18. The proposed changes can be found [here](#). For more information, please contact King County Manager [David Hoffman](#) at (425) 460-8224.

Bellevue Set to Extend Plats, Permits and Applications

The Bellevue City Council is pursuing an emergency ordinance that would extend plats, permits and applications by 12 months. The council will take action on Tuesday July 5, followed by a public hearing to be scheduled in the coming weeks. This ordinance answers a request from your association and multifamily builders in Bellevue. For more information, please contact King County Manager David Hoffman at (425) 460-8224.

Shoreline Discussing New Town Center Plan

The city of Shoreline is rewriting its Town Center Subarea Plan, which is centered on the city's Aurora/Highway 99 thoroughfare. The subarea plan and zoning code can be found here. Shoreline City Council members have asked your association to provide industry comments directly to them on those sections of the plan needing any improvement in order to encourage development. For more information, please contact King County Manager David Hoffman at (425) 460-8224.

The Summer 2011 Issue of PSE Builder News

- Puget Sound Energy's new natural gas service provider-InfraSource
- Energy Star Home Bonus
- Multi-family efficiency program expands
- Installing 2-inch conduit-requirements
- PSE web site updated

Download the whole newsletter here: Summer 2011PSE Builder News

Any questions, comments or suggestions for future newsletter topics, please contact Gary Turner, Builder Relations Manager with Puget Sound Energy at 425-424-6441.

2012 Building Code Cycle Begins This Summer

The opportunity to act as a technical advisor to the 2012 International Construction Codes Update is here. Applications are being accepted for membership on the technical advisory groups (TAGs) that review and recommend changes to the 2012 construction codes.

Every three years, the International Code Council (ICC) adopts nationwide updates to the construction codes (International Fire Code, International Building Code, International Residential Code, Uniform Plumbing Code, etc...). Afterward, each state then adopts the code changes, including any state specific codes that are unique and/or not covered by the ICC.

This summer, the process in Washington begins for the next code cycle. The Washington State Building Code Council (SBCC) is taking applications until Friday, Aug. 5 for membership on the Building Code TAG, Fire Code TAG, Residential Code TAG, Mechanical Code TAG, Plumbing Code TAG and Energy Code TAG. Members interested should review the specifics at 2012 TAG Policies & Procedures.

If you have any questions, please contact South King & Seattle Manager Garrett Huffman at (425) 460-8236 or BIAW at 1-800-228-4229.

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If you have any questions, please contact South King & Seattle Manager [Garrett Huffman](#) at (425) 460-8236 or BIAW at 1-800-228-4229.

Happy Fourth of July from your King County Government Affairs Managers!
David Hoffman and Garrett Huffman

Lauri Anderson

From: Debbie Bent
Sent: Tuesday, July 05, 2011 2:01 PM
To: Lauri Anderson
Subject: FW: Kenmore Municipal Code Administrative Amendments, SEP2011-057, Determination of Non-Significance

Deborah A Bent
Community Development Director
City of Kenmore
18120 68TH AVE NE
PO Box 82607
Kenmore, WA 98028

Phone: 425 398-8900
e-mail: dbent@kenmorewa.gov

From: Karen Walter [<mailto:KWalter@muckleshoot.nsn.us>]
Sent: Tuesday, July 05, 2011 2:01 PM
To: Debbie Bent
Subject: Kenmore Municipal Code Administrative Amendments, SEP2011-057, Determination of Non-Significance

Ms. Bent,

The Muckleshoot Indian Tribe Fisheries Division has reviewed the proposed changes to Kenmore's Municipal Code in Titles 17, 18, and 19. We offer the following comments in the interest of protecting and restoring the Tribe's treaty resources:

1. 18.05.020 re: Notice to Tribes. We recommend that this notice language be retained and added to Title 19 as its purpose is to ensure the Muckleshoot Indian Tribe's ability to review proposal that could affect its fisheries resources and tribal members ability to access these resources. If this section is eliminated, then it is very likely that projects that meet the various exemptions in 18.55.150.A.1, the Type 1 decision criteria in 19.25.020 and 19.35.060 for SEPA exemptions that could impact these resources be approved without any review opportunity by the Tribe. We specifically drafted this language in cooperation with the King County Council to address this concern when they modified their code chapters in 1994.
2. We agree with the proposed changes to 18.20.2900 regarding artificial ditches used by fish. Please note that WAC 222-22-031 specifically defines certain streams to be used by fish based on physical criteria, particularly if the stream has a blocking culvert below. We expect the City to use this criteria and definition when classifying streams as we have noted in previous comments to individual projects.
3. 18.20.3082, definition of "tree". We recommend that the City use a 4 inch DBH and 6 foot height standard to define a tree since this is the minimum standard for a piece of wood material to be considered functional for fish habitat purposes.
4. It is not clear why the City is proposing to remove the irrigation water budget standards in 18.20.3210 and 18.40.140 when these standards should help conserve water.
5. Please note that the Designation and Rating of Streams in 18.55.400 conflicts with WAC 222-16-031 because there is no provision for classifying streams that could be used by salmonids and other fish if they were not limited access due to blocking culverts and other human-made barriers.
6. Does 18.55 restrict further piping of streams? If not, it should.

7. Section 18.57.080.E will encourage non-native trees to replace native trees, based on the conifer example provided. The City should encourage native trees to the fullest extent possible to maximize functions, including water retention, compared to non-native trees.

We appreciate the opportunity to review this proposal and look forward to the City's responses.

Thank you,
Karen Walter
Watersheds and Land Use Team Leader

Muckleshoot Indian Tribe Fisheries Division
39015 172nd Ave SE
Auburn, WA 98092
253-876-3116

Lauri Anderson

From: Andrew Bauer
Sent: Wednesday, July 06, 2011 8:36 AM
To: Lauri Anderson
Subject: Message

Scott Jenkins
206-778-9097

Could you please give Scott a call back.

He is interested in the status of the code amendments. I spoke with him a couple of months ago. The draft changes at that time would still prohibit the garage he was proposing (too big for the setback) but I told him to check in later if he wished to get involved or follow the process once it got to council.

Andrew

Attachment 6

Lauri Anderson

From: Laura S. Brent, AICP [lbrent@brentplanningsolutions.com]
Sent: Wednesday, July 06, 2011 10:48 AM
To: Lauri Anderson
Cc: Brent, Laura
Subject: Proposed Amendment, Development Regulations

I represent the Northshore School District and have briefly reviewed the revisions. I understand that the CSDP process has been eliminated and a site review process will replace it (in some circumstances). I wasn't clear on the process for approving a Master Plan, would this just be done through the site review process? Thanks

Laura S. Brent, AICP
Brent Planning Solutions, LLC
2607 Wetmore Ave., Everett, WA 98201
Phone/Cell: 425.971.6409
Fax: 425.259.3832

Lauri Anderson

From: Dan Moehrke, PLS [aba.inc@frontier.com]
Sent: Friday, July 08, 2011 4:30 PM
To: Lauri Anderson; Debbie Bent
Subject: Proposed Amendments
Attachments: aba_inc.vcf

Since I cannot attend the upcoming public meeting I spent a few minutes going over the available materials found on the City webpage and found a couple of things that I feel a suggestion or clarification is necessary.

Section 18.30.050 Height - Measurement method. I suggest that you add the word "land" between licensed and surveyor or eliminate the word licensed altogether. This is consistent with the definition found in Section 17.10.200.

Section 17.20.050 B: Shouldn't this section refer to nine lots?

Section 17.15.130 A and B: Has the City established or published data that would comply with these sections? It would seem to me that if WSDOT (who is the only one that I know of to do so) information should be acceptable also. How about NUD? They have standards and published information that also should be acceptable. I suggest that this section be expanded to not confine the user to "City" monuments.

Section 17.10.320 defines Subdivision into ten *or more* lots..... A subdivision can also be less than 10 lots under certain circumstances such as a re-plat of a short subdivided lot or tract prior to the limitations imposed by Section 17.20.040. Perhaps while a Short Subdivision has an upper limit of nine a Subdivision should have no lower limit.

These few ideas/suggestions do not require a response unless you wish to further discuss.

--

Dan Moehrke, PLS
Aramaki, Borden & Associates Inc.
6141 NE Bothell Way, Suite 304
Kenmore, WA 98028
Telephone: 425-485-9711
Fax: 425-485-6795
email: aba.inc@frontier.com

Lauri Anderson

From: Debbie Bent
Sent: Friday, July 08, 2011 11:31 AM
To: Lauri Anderson
Subject: FW: Comments from Ann Hurst City to Host Public Workshop On Development Code Amendments, July 13th

Deborah A Bent
Community Development Director
City of Kenmore
18120 68TH AVE NE
PO Box 82607
Kenmore, WA 98028

Phone: 425 398-8900
e-mail: dbent@kenmorewa.gov

From: Lynn Suskin
Sent: Friday, July 08, 2011 11:24 AM
To: Nancy Ousley
Cc: Joanne Gregory; Debbie Bent
Subject: Comments from Ann Hurst City to Host Public Workshop On Development Code Amendments, July 13th

fyi

Lynn Suskin, CMC
Kenmore City Clerk
PO Box 82607
Kenmore, WA 98028
E-mail: lsuskin@kenmorewa.gov
Phone: (425) 398-8900 ext. 6191

Kenmore City Hall is located at 18120 68th Ave. NE

From: Ann Hurst [mailto:annmhurst@msn.com]
Sent: Thursday, July 07, 2011 2:52 PM
To: Kenmore Residents
Subject: FW: City to Host Public Workshop On Development Code Amendments, July 13th

Kenmore Residents especially,

Please take a look at the materials at the below link. I looked; on the face of things, it seems that to increase short platting from four to nine all across Kenmore and also to allow additional structures in back yards, opens a whole quagmire of flood issues and slide potential on the steep hazard slopes which comprise much of Kenmore. Regulations against such were in place by the County and for good reason.

Also, it appears that for Staff to compile AND INTERPRET this information may be a conflict of interest. The Council would do well to independently request outside interpretation to avoid the appearance of the Council being irresponsible about growing staff and staff salaries. We are less than a City of 20,000. If not the Council, where is the wall that protects the City from being sacked and plundered?

This is an instance where the City not only avoid evil, but the appearance of evil, and hire an independent consultant to interpret what the Staff may well have worked without self interest to compile.

Please weigh in with the City and residents if you find proposed changes that will benefit residents and/or changes likely to harm residents.

Thank you. Best, Ann Hurst

Date: Wed, 6 Jul 2011 09:30:17 -0700
From: NMeehan@KENMOREWA.GOV
Subject: City to Host Public Workshop On Development Code Amendments, July 13th
To: KENMORE-PLANNING-COMMISSION@LISTSERV.WA.GOV

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July 5, 2011

Re: Proposed Amendments to City of Kenmore, WA Development Regulations

The City of Kenmore is proposing amendments to the Kenmore Municipal Code land development sections (Title 17 – "Land Division," Title 18 – "Zoning," and Title 19 – "Planning Policies and Procedures") to eliminate inconsistencies, resolve existing conflicts, and reorganize the codes for ease of use by the City administration, project applicants, and the general public. This project supports the second of the Council's top five goals--to implement the economic development plan through a comprehensive audit of regulations and review of processes, along with identification of future, more substantive, code amendments (including a zoning review). This effort is a continuation of several measures taken to improve the city's land development process, including creation of the Department of Land Development and Permitting and its "Development Review Team."

The proposed amendments are detailed, administrative in nature, but still consistent with the Comprehensive Plan. The City Council heard an introductory presentation on these amendments on June 13 and conducted a workshop to discuss them on June 28. **Council will be holding a public hearing on Monday, July 18, 2011, to encourage public comment to the proposed changes.**

Prior to the public hearing, a public workshop will be conducted to present an overview of the project and answer questions about the proposed amendments. **The public workshop is scheduled for Wednesday, July 13, 2011, from 6:00 p.m. to 8:00 p.m. at City Hall.** A brief presentation describing the process and some of the most significant amendments will be made at 6:00 p.m. Questions will be addressed until 8:00 p.m.

The materials presented to the City Council at the June 13, 2011 meeting and at the workshop on June 28 can be accessed from the City's website at the link below:

<http://www.kenmorewa.gov/Page.aspx?nid=331>

The June 13, 2011 packet includes all of the proposed amendments (Attachments 1, 2 and 3). The June 28 materials include a summary of the amendments, along with initial questions by the City Council and the staff responses to those questions. A paper copy is also available for view at City Hall.

At the June 28 workshop, the City Council requested minor changes to the draft amendments to be incorporated into the Council and public hearing packet for the July 18, 2011 public hearing. These revised amendments will be available for review on the City's website by close of business on Friday, July 8.

If you have questions about the proposed amendments, upcoming public workshop, or upcoming public hearing, please contact Lauri Anderson, Senior Planner, at 425-398-8900 or landerson@kenmorewa.gov or Debbie Bent, Community Development Director at 425-398-8900 or dbent@kenmorewa.gov.

Lauri Anderson

From: Debbie Bent
Sent: Monday, July 11, 2011 10:13 AM
To: Lauri Anderson
Subject: FW: [stedwards] July 18 Council may make massive zoning changes to Kenmore
Attachments: message-footer.txt

Deborah A Bent
Community Development Director
City of Kenmore
18120 68TH AVE NE
PO Box 82607
Kenmore, WA 98028

Phone: 425 398-8900
e-mail: dbent@kenmorewa.gov

From: Lynn Suskin
Sent: Monday, July 11, 2011 9:55 AM
To: Nancy Ousley; Joanne Gregory; Debbie Bent
Subject: FW: [stedwards] July 18 Council may make massive zoning changes to Kenmore

fyi

Lynn Suskin, CMC
Kenmore City Clerk
PO Box 82607
Kenmore, WA 98028
E-mail: lsuskin@kenmorewa.gov
Phone: (425) 398-8900 ext. 6191

Kenmore City Hall is located at 18120 68th Ave. NE

From: stedward-owner@lists.riseup.net [<mailto:stedward-owner@lists.riseup.net>] **On Behalf Of** Ann Hurst
Sent: Sunday, July 10, 2011 11:54 PM
To: stedward; c4sep
Subject: [stedwards] July 18 Council may make massive zoning changes to Kenmore

From: Ann Hurst <annmhurst@msn.com>
To: Kenmore Residents <annhurst@msn.com>
Sent: Sun, July 10, 2011 11:17:48 AM
Subject: [stedwards] Zoning vote July 18

Kenmore Residents, City has scheduled vote on massive zoning changes for July 18. See <http://kenmore.civicweb.net/Documents/DocumentList.aspx?ID=30448>. Notice was first sent to residents last week and then I sent out an alert. Most responses were "out of town." These are complicated issues. The Council should ask the residents if this is the way we want out town to develop. One response to the alert was a survey should be taken of the residents as was done when we first incorporated, and in the Fall when residents are home.

This could easily be done through the City Newsletter. Another interesting idea is to have public input from an informed public. One week is not enough time to assess the complicated issues, which do not address the current flooding increased by short platting and permissiveness in grading and outbuildings, but extend this right to developers within all of incorporated Kenmore. If your yourself are not affected, though you may well be and not realize this as the documents are long and their goal is unclear, please consider the well being of your neighbors and respond to the Council that you want to be part of the process and in the Fall when you have time to study the issues. Best, Ann Hurst

Ms. Hurst,

You can ask all the questions you want at the July 13 Workshop. There will be at least one Public Hearing. The Council spent one whole study session devoted to this issue. There will be considerable discussion and public comment before we take a final vote on this.

Regarding changing a short plat from 4 to 9 lots, there is not a risk to environmental concerns. Critical Areas Ordinance and Shoreline regs still apply as always.

I see no need for an additional outside consultant. Staff has spent many hours evaluating these potential code changes, consulted with many stakeholders and there will be ample opportunity for more public input.

I look forward to your attendance at the workshop on the 13th and future public hearing(s).

Allan

Lauri Anderson

From: Debbie Bent
Sent: Tuesday, July 12, 2011 8:13 AM
To: Lauri Anderson
Subject: FW: Municipal Code Comments
Attachments: Municipal Code Comments.pdf

Deborah A Bent
Community Development Director
City of Kenmore
18120 68TH AVE NE
PO Box 82607
Kenmore, WA 98028

Phone: 425 398-8900
e-mail: dbent@kenmorewa.gov

From: Jim Howard [<mailto:jhoward@hbbseattle.com>]
Sent: Tuesday, July 12, 2011 7:53 AM
To: Debbie Bent
Cc: Glenn Rogers; Laurie Sperry
Subject: Municipal Code Comments

Hi Debbie,

I will not be able to attend the Municipal Code public workshop meeting tomorrow evening. Generally the code updates look good however I do have a couple of comments regarding the landscape standards (see attached). The biggest comments concern stronger standards for landscape irrigation and soil preparation. These are substantial cost items that often get short changed unless there is a strong code requirement to force a high quality construction. The attached City of Kirkland and City of Issaquah codes may provide some language for the city to consider.

Two other items that may need to be reviewed more closely is the landscape maintenance provision and tree pruning of code required trees. A major landscape problem is often the pruning (topping) of code required trees. Topping trees is a very poor maintenance practice that ruins the form and beauty of the tree. This is often done by business owners in attempt to improve visibility to signage. Making sure code required plants are properly established and maintained is also important. I will try to find good examples of code language for these concerns prior to the July 18th public hearing.

Hopefully I will be able to attend the public hearing on July 18th. Keep up the good work!

Thank you.

Jim Howard, ASLA
Principal
jhoward@hbbseattle.com*



P 206-682-3051
F 206-682-3245
Seattle | Boise

B. Five feet of Type II landscaping shall be included in an attached group residence development, except that along portions of the development adjacent to property developed with single detached residences or vacant property that is zoned R(1-6), the requirement shall be 10 feet of Type II landscaping;

C. Ten feet of Type II landscaping shall be included in an industrial development along any portion adjacent to a commercial or institutional development;

D. Ten feet of Type II landscaping shall be included in an institutional use, excluding distribution or transmission corridors, when located outside a public right-of-way; and

■ RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE shall provide 10 feet of Type II landscaping along the common property boundary with the Burke-Gilman public trail right-of-way. Property owners may negotiate with King County to have the Type II landscaping located within the Burke-Gilman public right-of-way.

F. In the CB zone, where interior setbacks are required and/or provided, setbacks shall be landscaped with Type II landscaping. [Ord. 07-0275 § 2; Ord. 03-0175 § 30; Ord. 98-0026 §§ 1, 2 (KCC 21A.16.060).]

18.002.070

Landscaping – Surface parking areas.

Parking area landscaping shall be provided within surface parking areas with 10 or more parking stalls for the purpose of improving air quality, reducing surface water runoff, providing shade and diminishing the visual impacts of large paved areas as follows:

A. Residential developments with common parking areas shall provide planting areas at the rate of 20 square feet per parking stall;

B. Commercial, industrial or institutional developments shall provide landscaping at a rate of:

1. Twenty square feet per parking stall if 10 to 30 parking stalls are provided; and
2. Twenty-five square feet per parking stall if 31 or more parking stalls are provided;

■ Trees shall be provided and distributed throughout the parking area at a rate of:

1. One tree for every three parking stalls for a commercial or industrial development; and
2. One tree for every five parking stalls for residential or institutional development;

■ The maximum distance between any parking stall and landscaping shall be no more than 100 feet;

■ Permanent curbs or structural barriers shall be provided to protect the plantings from vehicle overhang;

■ Landscaping around the perimeter of a site that is in addition to the perimeter landscaping required by KMC 18.002.050 may count toward 10 percent of the required surface parking area landscaping in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE (see subsection (B) of this section) if it is adjacent to the parking area;

■ Parking area landscaping shall consist of:

1. Canopy-type deciduous trees, evergreen trees, evergreen shrubs and ground covers planted in islands or strips;
2. Shrubs that do not exceed a maintained height of 42 inches;
3. Plantings contained in planting islands or strips having an area of at least 100 square feet and with a narrow dimension of no less than five feet;
4. Ground cover in accordance with KMC 18.002.090; and
5. At least 70 percent of trees are deciduous; and

■ Standards for perimeter landscaping and screening of surface parking lots for the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE, are defined in Chapter 18.52 KMC, Downtown Design Standards.

■ All other landscape requirements for surface parking lot landscape in this section apply to the DC and DR zones, and RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE. [Ord. 03-0175 § 31; Ord. 98-0026 §§ 1, 2 (KCC 21A.16.070).]

Shrubs within parking lot islands (interior)
should be less than 40" height
for safety and security.

18. ~~000~~ 080**Landscaping – General standards for all landscape areas.**

All new landscape areas proposed for a development shall be subject to the following provisions:

A. Berms shall not exceed a slope of two horizontal feet to one vertical foot (2:1).

B. All new turf areas, except all-weather, sand-based athletic fields shall:

1. Be augmented with a two-inch layer of organic material cultivated a minimum of six inches deep; or
2. Have an organic content of five percent or more to a depth of six inches.

The soil analysis shall include:

a. Determination of soil texture, including percentage of organic matter

b. Determination of soil infiltration rate (either measured or derived from published infiltration coefficients)

c. Determination of soil pH

C. Except as specifically outlined for turf areas in subsection (B) of this section, the organic content of soils in any landscape area shall be as necessary to provide adequate nutrient and moisture-retention levels for the establishment of plantings.

D. Landscape areas, except turf or areas of established groundcover, shall be covered with at least two inches of mulch to minimize evaporation.

E. Plants having similar water use characteristics shall be grouped together in distinct hydrozones.

F. Plant selection shall consider adaptability to climatic, geologic, and topographical conditions of the site. Preservation of existing vegetation is encouraged. [Ord. 98-0026 §§ 1, 2 (KCC 21A.16.085).]

18. ~~000~~ 090**Landscaping – Additional standards for required landscape areas.**

In addition to the general standards of KMC 18. ~~000~~ 080, landscape areas required pursuant to KMC 18. ~~000~~ 050 through 18. ~~000~~ 070 shall conform to the following standards:

A. All plants shall conform to American Association of Nurserymen (AAN) grades and standards as published in the "American Standard for Nursery Stock" manual; provided, that existing healthy vegetation used to augment new plantings shall not be required to meet the standards of this manual;

B. Single-stemmed trees required pursuant to this chapter shall at the time of planting conform to the following standards:

1. In parking area landscaping and in street rights-of-way:

- a. Deciduous trees shall have a minimum caliper of 1.75 inches and a height of 10 feet in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE, which shall have a minimum caliper of 3.0, and
- b. Coniferous and broadleaf evergreen trees shall be at least five feet in height;

2. In all other required landscape areas:

- a. Deciduous trees shall have a minimum caliper of 1.5 inches and a height of 10 feet in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE, which shall have a minimum caliper of 3.0, and
- b. Coniferous and broadleaf evergreen trees shall be at least five feet in height except in the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE where they shall be at least 10 feet in height;

C. Multiple-stemmed trees shall be permitted as an option to single-stemmed trees in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE provided that such multiple-stemmed trees are:

1. At least six feet in height, and have minimum 3 main trunks
2. Not allowed within street rights-of-way.

D. When the width of any landscape strip is 20 feet or greater, the required trees shall be staggered in two or more rows:

E. Shrubs shall be:

1. At least an AAN container class #2 (two-gallon) size at time of planting in Type II, III and parking area landscaping.

2. At least 24 inches in height at the time of planting for Type I landscaping, and

3. Maintained at a height not exceeding 42 inches when located in Type III or parking area landscaping except in the DC and DR zones where they shall not exceed a maximum height of 48 inches;

Generally →
parking lot
islands (interior)
should
be less
than 30"
height for
safety and
security

F. Ground covers shall be planted and spaced to result in total coverage of the majority of the required landscape area within three years;

G. All fences shall be placed on the inward side of any required perimeter landscaping along the street frontage;

H. Required street landscaping may be placed within city ~~streets~~ street rights-of-way subject to the city ~~design~~ design standards, provided adequate space is maintained along the street line to replant the required landscaping should subsequent street improvements require the removal of landscaping within the rights-of-way;

I. Required street landscaping may be placed within Washington State rights-of-way subject to permission of the Washington State Department of Transportation; and

J. New landscape material provided within areas of undisturbed vegetation or within the protected area of significant trees shall give preference to utilizing indigenous plant species. [Ord. 03-0175 § 32; Ord. 98-0026 §§ 1, 2 (KCC 21A.16.090).]

18.205.100

Landscaping – Alternative options.

The following alternative landscape options may be allowed, subject to city approval, only if they accomplish equal or better levels of screening, or when existing conditions on or adjacent to the site, such as significant topographic differences, vegetation, structures or utilities would render application of this chapter ineffective or result in scenic view obstruction:

A. The amount of required landscape area may be reduced to ensure that the total area for required landscaping, and/or the area remaining undisturbed for the purpose of wildlife habitat or corridors does not exceed 15 percent of the net developable area of the site. For the purpose of this subsection, the net developable area of the site shall not include areas deemed unbuildable due to their location within critical areas and any associated buffers;

B. The average width of the perimeter landscape strip may be reduced up to 25 percent along any portion where:

1. Berms at least three feet in height or architectural barriers at least six feet in height are incorporated into the landscape design; or

2. The landscape materials are incorporated elsewhere on-site;

C. In pedestrian district overlays, street perimeter landscaping may be waived provided a site plan, consistent with the applicable adopted area plan, is approved that provides street trees and other pedestrian-related amenities;

D. Landscaping standards for town centers or rural business centers designated by the comprehensive plan may be waived or modified by the director if deemed necessary to maintain the historic character of the area;

E. Where a local or subarea plan with design guidelines has been adopted, the ~~director or manager~~ shall base the landscaping modifications on the policies and guidelines of such plan;

F. When an existing structure precludes installation of the total amount of required site perimeter landscaping, such landscaping material shall be incorporated on another portion of the site;

G. Single-stemmed deciduous tree species that cannot generally be planted and established in larger sizes may have a caliper of less than 1.5 inches; ~~2"~~

H. The number of trees and shrubs to be provided in required perimeter and parking area landscaping may be reduced up to 25 percent when a development uses landscaping materials consisting of species typically associated with the Puget Sound Basin in the following proportions:

1. Seventy-five percent of groundcover and shrubs, and

2. Fifty percent of trees;

I. The department shall develop and maintain an advisory listing of trees recommended for new plantings. Such list shall describe their general characteristics and suitability, and provide guidance for their inclusion within required landscape areas;

J. In the DC and DR zones, alternative landscape requirements may be proposed in order to retain trees (over 12 inches DBH if deciduous or eight inches DBH if evergreen, measured as average trunk diameter at chest height; measured four and one-half feet above grade). This alternative requirement applies only to trees which are beyond what

Almost all
trees are
available in 2"
caliper.

Do not
see the
benefit of
this provision.
Recommend
deletion

is already required in the city's significant tree ordinance. Interior parking lot landscape requirements may be reduced at a 1:1 ratio equal to the land area within the drip line of the tree being retained. [Ord. 93-0175 § 33; Ord. 98-0026 §§ 1, 2 (KCC 21A.16.100).]

18.005.110

Landscaping – Plan design, design review, and installation.

A. The landscape plan submitted to the department shall be drawn on the same base map as the development plans and shall identify the following:

1. Total landscape area and ~~separate hydrozones~~; *recommend deleting hydrozone requirement*
2. Landscape materials botanical common name and applicable size;
3. Property lines;
4. ~~Impervious surfaces~~;
5. Natural or manmade water features or bodies;
6. Existing or proposed ~~structures, fences, and retaining walls~~;
7. Natural features or vegetation left in natural state; and
8. Designated recreational open space areas.

B. The proposed landscape plan shall be certified by a Washington State registered landscape architect, Washington State certified nurseryman, or Washington State certified landscaper.

C. An affidavit signed by an individual specified in subsection (B) of this section, certifying that the landscaping has been installed consistent with the approved landscaping plan, shall be submitted to the department within 30 days of installation completion, unless the installed landscaping has been inspected and accepted by the ~~department~~.

D. The required landscaping shall be installed no later than three months after issuance of a certificate of occupancy for the project or project phase. However, the time limit for compliance may be extended to allow installation of such required landscaping during the next appropriate planting season. A financial guarantee shall be required prior to issuance of the certificate of occupancy, if landscaping is not installed and inspected prior to occupancy. [Ord. 98-0026 §§ 1, 2 (KCC 21A.16.115).]

18.005.120

Maintenance.

- A. All landscaping shall be maintained for the life of the project;
- B. All landscape materials shall be pruned and trimmed as necessary to maintain a healthy growing condition or to prevent primary limb failure;
- C. With the exception of dead, diseased or damaged trees specifically retained to provide wildlife habitat; other dead, diseased, damaged or stolen plantings shall be replaced within three months or during the next planting season if the loss does not occur in a planting season; and
- D. Landscape areas shall be kept free of trash. [Ord. 98-0026 §§ 1, 2 (KCC 21A.16.180).]

18.005.130

Financial guarantees.

Financial guarantees shall be required consistent with the provisions of KMC Title 21. This time period may be extended to one year by the ~~department~~, if necessary to cover a planting and growing season. [Ord. 98-0026 §§ 1, 2 (KCC 21A.16.190).]

18.005.140

Water use – Availability of water budget for landscape areas.

Irrigation systems of any type are optional components of a landscape area. However, a water budget for irrigation purposes shall be established for all new development, except for ~~individually planted shrub dwelling detached or detached residential lots provided that the landscape material~~ ~~landscaping in common areas of residential projects is not exempt, and~~ ~~landscaping with a total landscaped area less than 500 square feet.~~ [Ord. 98-0026 §§ 1, 2 (KCC 21A.16.210).]

B. *Antennas* shall not extend vertically above the uppermost portion of the *structure* to which they are mounted or attached, as follows:

1. Not more than the height of the *antenna* on the *transmission support structure* or *alternative transmission support structure* or three feet (36 inches), whichever is more restrictive;
2. Not more than 20 feet on a nonresidential *structure*; and
3. Not more than 15 feet on a residential *structure*, such as a garage, carport, shed, etc.

C. *Antennas* must be located at least 33 feet (10 meters) in any one direction from all residential living spaces and schools.

D. *Antenna modifications* and replacements which meet the requirements of subsection (A) of this section do not require approval from the city or a permit; however, testing per KMC 18.60.260 is required. [Ord. 05-0228 § 4.]

18.60.220

NIER exposure standards.

A. A *communication facility*, by itself or in combination with others, shall not expose the public to *NIER* that exceeds the electric or magnetic field strength, or the power density, for the frequency ranges and durations described in 47 C.F.R. Section 1.1310 or any other applicable federal law or regulation. A statement signed by a licensed professional electrical engineer shall be submitted that states that the proposed communications facilities meet all federal interference rules and regulations.

B. Permit applications for communication facilities shall include a statement, signed by a registered professional electrical engineer licensed in the state of Washington who holds a valid FCC General Radiotelephone License, that the proposed communications facilities meet all federal *NIER* rules and regulations. The report must also include the proposed levels of exposure and how they comply with FCC guidelines. [Ord. 05-0228 § 4.]

18.60.230

Fencing and NIER warning signs.

All *communication facility sites* shall comply with all federal guidelines regarding fencing and *NIER* warning signs. [Ord. 05-0228 § 4.]

18.60.240

Shock and burn standard.

The *communication facility* shall comply with 47 C.F.R. Section 1.1310. [Ord. 05-0228 § 4.]

18.60.250

Landscaping requirements.

A *communication facility site* shall provide landscaping as follows:

A. When the facility is located in:

1. The NB, RB, DC, or DR zone, the base of any *transmission support structure* or *transmitter building* shall be landscaped with eight feet of Type II landscaping as defined by KMC 18.040(B).
2. The R zones, the base of any *transmission support structure*, *alternative transmission support structure* or *transmitter building* shall be landscaped with 10 feet of Type I landscaping as defined by KMC 18.040(A).

B. When a security fence is used to prevent access onto a *transmission support structure*, *alternative transmission support structure* or *transmitter building*, any landscaping required pursuant to subsection (A) of this section shall be placed outward of such security fence.

C. When a security fence is used:

1. In the NB or RB zone, wood slats shall be woven into the security fence if made of chain-link material.
2. In the R zone, climbing evergreen shrubs or vines capable of growing on the fence shall supplement any landscaping required pursuant to subsection (A) of this section.

D. Landscaping shall be planted according to KMC 18.110. The applicant shall be required to maintain the installed landscaping per KMC 18.120. A two-year landscape maintenance bond shall be required to be posted at

The communication tower located across from City Hall is spraying herbicide around the base to kill all vegetation. Landscape screening would greatly help the appearance.

City of Issaquah - Soil Standards

Topsoil: The uppermost layer of soil, usually the top six (6) to eight (8) inches. It has the highest concentration of organic matter and microorganisms, and is where most of the Earth's biological soil activity occurs. Plants generally concentrate their roots in, and obtain most of their nutrients from, this layer. Topsoil can be measured as the depth from the surface to the subgrade.

P. Soil Porosity: Soils in planting areas shall have adequate porosity to allow root growth. Soils which have been compacted to a density greater than eighty-five (85) percent compaction shall be loosened (ripped) to increase aeration to a minimum depth of eighteen (18) inches or to the depth of the largest plant rootball, whichever is greater. A minimum of eight (8) inches of topsoil, amended as appropriate for soil conditions and plant material selection, shall be tilled into soils in four (4) inch lifts to prevent a distinct soil interface from forming. After soil preparation is completed, motorized vehicles shall be kept off to prevent excessive compaction and underground pipe damage.

Q. Soil Amendments – Compost, Topsoil and Seed Mix Specifications: All new landscape areas shall be required to amend soils to improve soil health and nutrient availability, increase porosity, infiltration and moisture holding capacity and shall meet minimum specifications for soils, compost, mulches and seed mixes.

1. Subgrade shall be a minimum of eight (8) inches below finish grade. Substandard soils shall be removed prior to adding amendments.
2. A soils analysis shall be completed for all new planting areas and shall include:
 - a. A determination of soil texture, indicating percentage of organic matter.
 - b. An approximated soil infiltration rate either measured or derived from soil/texture/infiltration rate tables.
 - c. A measure of pH value.
3. Soils for use in projects applying low impact development (LID) standards shall follow the LID Technical Guidance Manual for Puget Sound, Section 6.2, Amending Construction Site Soils.
4. For soils that will not adequately percolate to provide proper drainage for plant materials, a plan to correct the situation shall be developed by the landscape architect and approved by the Planning Director/Manager.
5. Guidelines for meeting minimum standards are available at the Permit Center and shall follow the Washington State University King County Extension Services guidelines for soil conditions and plant selection.

R. Native Soil Protection: The conservation and use of on-site native soil and vegetation for stormwater management is a central principle of LID design. For management of native vegetation and soil protection

areas for LID design see the LID Technical Guidance Manual (Chapter 4, Vegetation Protection, Reforestation and Maintenance, and Section 6.2, Amending Construction Site Soils).

1. The duff layer and native topsoils shall be retained in an undisturbed state to the maximum extent practicable. Any duff layer or topsoil removed during grading shall be stockpiled on site in a designated, controlled area not adjacent to public resources and critical areas. The material shall be reapplied to other portions of the site where feasible.
2. Areas that have been cleared and graded or subject to prior disturbance shall be amended. Prior disturbance shall include soil compaction or removal of some or all of the duff layer or underlying topsoil. Replaced topsoil shall be a minimum of eight (8) to twelve (12) inches in depth, unless the applicant demonstrates that a different thickness will provide conditions equivalent to the soil moisture holding capacity native to the site. Replacement topsoil shall have an organic content of ten (10) percent dry weight and a pH between 5.5 and 7.0. The intent of amending disturbed soils is to restore the moisture holding capacity of the original undisturbed native soil to the maximum extent practicable.
3. This section does not apply to areas that would harm existing trees proposed for retention, or that, at project completion, are covered by an impervious surface, incorporated into a drainage facility or engineered as structural fill or slope. (Ord. 2546 § 1, 2008; Ord. 2497 § 7, 2007; Ord. 2481 § 9, 2006; Ord. 2108 § 12.16, 1996; Ord. 1877 §§ 4 – 6, 1991; Ord. 1859 § 30, 1990. Formerly 18.12.16C).

City of Kirkland - Irrigation Standard

7. **Irrigation.** The intent of this standard is to ensure that plants will survive the critical establishment period when they are most vulnerable due to lack of watering. All required plantings must provide an irrigation system, using either Option 1, 2, or 3 or a combination of those options. For each option irrigation shall be designed to conserve water by using the best practical management techniques available. These techniques may include, but not be limited to: drip irrigation to minimize evaporation loss, moisture sensors to prevent irrigation during rainy periods, automatic controllers to insure proper duration of watering, sprinkler head selection and spacing designed to minimize overspray, and separate zones for turf and shrubs and for full sun exposure and shady areas to meet watering needs of different sections of the landscape.

Exceptions, as approved by the Planning Official, to the irrigation requirement may be approved xeriscape (i.e., low water usage plantings), plantings approved for low impact development techniques, established indigenous plant material, or landscapes where natural appearance is acceptable or desirable to the City. However, those exceptions will require temporary irrigation (Option 2 and/or 3) until established.

- a. Option 1. A permanent built-in irrigation system with an automatic controller designed and certified by a licensed landscape architect as part of the landscape plan.
 - b. Option 2. An irrigation system designed and certified by a licensed landscape architect as part of the landscape plan, which provides sufficient water to ensure that the plants will become established. The system does not have to be permanent if the plants chosen can survive adequately on their own, once established.
 - c. Option 3. Irrigation by hand. If the applicant chooses this option, an inspection will be required one (1) year after final inspection to ensure that the landscaping has become established.
8. **Drainage.** All landscapes shall have adequate drainage, either through natural percolation or through an installed drainage system. A percolation rate of one-half (1/2) inch of water per hour is acceptable.
9. **Mulch.**
- a. Required plantings, except turf or areas of established ground cover, shall be covered with two (2) inches or more of organic mulch to minimize evaporation and runoff. Mulch shall consist of materials such as yard waste, sawdust, and/or manure that are fully composted.
 - b. All mulches used in planter beds shall be kept at least six (6) inches away from the trunks of shrubs and trees.
10. **Protection.** All required landscaped areas, particularly trees and shrubs, must be protected from potential damage by adjacent uses and development, including parking and storage areas. Protective devices such as bollards, wheel stops, trunk guards, root guards, etc., may be required in some situations.
11. **Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers.** Plants intended to mitigate for the loss of natural resource values are subject to the following requirements in addition to the other landscaping requirements found in KZC 95.40 through 95.45. Where these requirements conflict with other requirements of this chapter, these requirements take precedence. Refer to Chapters 85 and 90 KZC for additional requirements for these areas.

Lauri Anderson

From: Debbie Bent
Sent: Friday, July 15, 2011 7:42 AM
To: Lauri Anderson
Subject: FW: division of property

FYI
Deborah A Bent
Community Development Director
City of Kenmore
18120 68TH AVE NE
PO Box 82607
Kenmore, WA 98028

Phone: 425 398-8900
e-mail: dbent@kenmorewa.gov

From: Milton Curtis
Sent: Thursday, July 14, 2011 9:27 PM
To: 'sherry isenhath'
Cc: Frederick Stouder; Debbie Bent
Subject: RE: division of property

Sherry and Stan

I appreciate your feedback. I know most citizens with concerns never take the time to contact us.

I think there may be some confusion. I can't tell from your comments if you are referring to the Review of the Zoning and Development Regulations that we are working on now or the Transportation Oriented Development that was discussed last year. **The Zoning and Development Regulations does not include any increase in density.** That would require a zoning change and a change in the Comprehensive plan which is a major undertaking with considerable public input. The TOD did involve an increase in density, but we have not acted on the recommendations from the Downtown Task Force yet. Our notebooks were almost 900 pages including the originals with color coded changes and the final clean copy. I carefully went through all of the draft copies and sent lot of question for the staff to answer. I don't think I would have missed anything as major as a change in density, but there was a lot of information. If I missed anything please let me know.

The essence of the changes we are considering is to clean up the mess King County gave us 12 years ago. We brought a 12 year old document up to date. We clarified the definition section. We eliminated most of the P suffixes. We reorganized topics into more logical grouping. We eliminated contradictions. We eliminated the double layer of permitting for some projects which required a Commercial Site Development Plan plus a building permit or on top of a Master Plan. For simple projects this was an expensive burden on property owners because it doubled the work of doing the CSD Plan plus the building permit. For large projects that had already done a Master Plan, they were ready to move to a building permit without CSD Plan acting as a 3rd layer of permitting in between the Master plan and the building permits.

The only thing I can think of that may have given the appearance of a density change is the simplification of plats between 5 and 9 lots. A short plat is presently less than 4 lots. A long plat is

more than 4 lots. The state allows up to 9 lots for a short plat. **A short plat and a long plat must obey the same density and zoning laws. We did not change any of those densities.** If property is an R 6, they can only get 6 lots per acre with either a short plat or a long plat under the present rules and under the proposed rules. If it is an R 24, it is the same under the present rules and under the proposed rules. In the present laws, it takes longer to get a long plat than a short plat due to more level of bureaucracy. We want to encourage development, not by increasing density but by making the process quicker, thereby saving time and money. The proposed rules would simply speed up plats from 5 to 9 lots. The subdivisions with more than 10 lots would remain the same.

Please let me know where the confusion lies. I will be away for the weekend for my 40 year Cheney High School class reunion, so I won't be able to respond until next week.

Again I appreciate your involvement in Kenmore's future. Stan, I appreciated the time we worked together on the Downtown Task Force and your contribution volunteering on committees to help our city.

By the way, congratulations are in order for you candidacy for Fire Commissioner.

Milton

From: sherry isenhath [mailto:sherryisenhath@yahoo.com]
Sent: Wednesday, July 13, 2011 12:17 PM
To: David Baker; Milton Curtis
Cc: Laurie Sperry; John Hendrickson; Bob Hensel; Allan Van Ness; stanisenhath@windermere.com
Subject: division of property

Hi Milton,

We and many others in Kenmore are very much unaware and taken back with the council's consideration for rezoning to increase density. While it is a fact of life, a sign of the times, there are other communities (Kirkland, Houghton, etc) which have undertaken this critical topic with greater deliberation, input and open forum.

Not able to attend today's workshop, and quite frankly not aware of it's details, Stan and I have expressed ours and others' concerns about this to other council members, not the least of which was Allan in yesterday's meeting. What is needed, or rather missing, is a means to get more specific feedback from local citizens which, by the way, could be achieved with a website specifically set up to gather input on such critical issues.

Encouraging development is one thing. Enabling it at the will of developers without first having the awareness and support of our residents is absolutely unacceptable. It is apparent the Council, and staff, have minimal vision as to the unmet needs in our city, based on current resident input and deliberation. To take on dividing what is a fixed and permanent asset, our land, without this will be one of the most risky decisions we've faced; a decision which will result in dividing something even more: the public opinion on our entire council and staff.

We strongly encourage you to proceed with caution and with wider public input. As a broker with the leading real estate firm, Windermere, Stan has constant contact with

developers. He and other executives are very much aware of developers' urgency to divide and develop, looking towards 2014 rollout. Your direction is indelible, one-way and non-reversible. You are in place to represent us and to that end, we expect nothing less. Thanks for your service.

Sherry and Stan Isenhath
16328 Inglewood Rd NE
Kenmore, WA 98028
425.488.2958

I am dropping you a note as we are not able to attend the public workshop, but Stan and I have mentioned to several of the members of the council about the need for another survey as to get input on other views on how we would like to see our city develop. We are concerned about dividing property as one of the special qualities of our community is space and room. Friends come out from the city and rave about how wonderful it is to come out our way where there is more room and space.

Please give special consideration to this thought and pass on our message to the others on the board. I think we must think seriously what separates Kenmore from Seattle and the other cities around us. We plan to stay in touch. Regards, Sherry & Stan Isenhath

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Council discussion, direction and possible adoption of Ordinance 11-0329, an ordinance of the City of Kenmore, Washington, repealing Title 17 Land Division, Title 18 Zoning and Title 19 Planning Policies and Procedures of the Kenmore Municipal Code; adopting new Title 17 Land Division, new Title 18 Zoning and new Title 19 Land Use Policies and Procedures of the Kenmore Municipal Code (KMC); adopting amendments to KMC Sections 2.20.120.A, 12.58.070.C, 12.75.010, 12.75.020.A, 12.75.020.F.1, 13.35.025.B.7.2, 13.35.030.Z, 13.40.070.F, 15.25.050.A.7, 15.25.050.A.10, 15.25.050.A.11, 15.25.050.A.12, 15.25.050.A.16, 15.25.070.A.5, 15.25.070.C, 15.25.140.A and 21.20.070.B to provide consistent cross-referencing to Title 17, Title 18 and Title 19 KMC; Amending Title 20 KMC Development Permits by adding Chapter 20.47 Road and Park Impact Fees and amending Section 20.50.010 School Impact Fees.			July 18, 2011
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Planning & Community Development	Debbie Bent	Lauri Anderson, Senior Planner	425-398-8900
COST OF PROPOSAL: Approximately 1056 staff hours from October 2010 through May 2011 to prepare and review the amendments.		ACCOUNT NUMBER: 01 58 5001 Regular Salaries & Wages	
AMOUNT BUDGETED:		NAME AND FUND #: General Fund #01	
ATTACHMENT(S) TO AGENDA PACKET ITEM: Attachment #1: Ordinance 11-0329 with attached Exhibit 1: Title 17 Land Division, Title 18 Zoning and Title 19 Land Use Policies and Procedures of the Kenmore Municipal Code (KMC); Exhibit 2; Site Plan Review Map; Exhibit 3: Chapter 20.47 Road and Park Impact Fees.			
SUMMARY STATEMENT: At the July 18th, 2011 Council meeting, Council will hold a public hearing on proposed amendments to Titles 17 Land Division, Title 18 Zoning and Title 19 Planning Policies and Procedure, and amendments to other sections of the Kenmore Municipal code for consistency in cross-referencing The amendments are proposed in order to: eliminate redundancies and inconsistencies in the current code; streamline and simplify review and permit processes; specify code interpretation and decision making authority; and to include new regulations for clarity.			
Ordinance 11-0329 (attachment #1) incorporates all amendments considered at the July 18 th public hearing, provided as part of the agenda packet information. In addition, the ordinance includes a reformat of the tables in Title 18 to be consistent in terms of labeling and superscripts.			
Note: The City Attorney is in the process of completing review of the proposed amendments. Additional amendments to development regulations and a revised ordinance, as appropriate to address City Attorney comments, may be provided to Council for consideration, prior to the July 18 th , 2011 meeting, as a supplement to the agenda packet information.			
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION: The proposed amendments were introduced to Council at the June 13, 2011 Council meeting. Council discussed proposed amendments at a June 28 th , 2011 Council workshop. The following motions were passed by Council at the June 28 th , 2011 workshop regarding the proposed amendments. A motion passed (6-0) to authorize proposed amendments to Title 17 as drafted to proceed to a Public Hearing. A motion passed (6-0) to amend Title 19 to increase the notification requirements to property owners regarding land use applications from properties within 500 feet to 1000 feet of a land use application for the initial Notice of Application and Notice of Public Hearing with the Notice of Decision sent only to interested parties. A motion passed (6-0) to authorize proposed amendments to Title 19, with the inclusion of the amendment proposed by Council, to proceed to a Public Hearing. A motion passed (6-0) to authorize proposed amendments to Title 18 as drafted to proceed to a Public Hearing. At the June 28 th Council			

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Council Discussion, Direction and Possible Adoption of Ordinance No. 11-0329 An

workshop, it was also the consensus of Council to schedule a workshop hosted by staff to provide an opportunity for public feedback, comment and questions prior to a Public Hearing. That public workshop is scheduled for Wednesday, July 13, 2011.

The adopted 2011-2012 Biennial Budget includes a work program objective for the Department of Planning & Community Development to prepare recommendations for Council consideration regarding proposed amendments to development regulations to provide reorganization, correct inconsistencies and clarify standards. This work program is supported by Comprehensive Plan Land Use Objective 2.2, "Prepare clear development regulations consistent with the Comprehensive Plan." Policy LU-2.2.3 under this objective states that, "Kenmore's regulation of land use should...be expeditious, predictable, clear, straightforward, and internally consistent" and "be responsive, understandable, and accessible to the public."

The development code amendment work program supports the second of the Council's top five goals which is to implement the economic development plan. A goal of the Economic Development Strategy adopted by Council June 1, 2009 is to "support existing businesses and pursue opportunities to expand employment". A strategy identified to implement this goal is "an audit of regulations, zoning, fees and processes to ensure that they are consistent with the Comprehensive Plan and Downtown Plan, supportive of investment in the City's target sectors according to current business practices, and competitive relative to neighboring communities". The development code amendment work program item supports implementation of the 2009 Economic Development Strategy through a comprehensive audit of regulations and review of processes, along with identification of future code amendments (including a zoning review) to support Council's goal. This effort is a continuation of several measures taken to improve the city's land development process, including creation of the Development Review Team and the Department of Land Development and Permitting in 2010 to improve and streamline the development review and permit process.

RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Council discussion on proposed amendments following close of the July 18th Public Hearing. Council direction and action to potentially pass a motion approving Ordinance 11-0329, an ordinance adopting proposed amendments. Alternatively, Council can pass a motion to continue the public hearing, continue Council discussion and action on the ordinance to a future Council meeting.

**REVIEWED BY FINANCE
DIRECTOR:**

**REVIEWED BY CITY
ATTORNEY:**

APPROVED BY CITY MANAGER:

**TODAY'S
DATE:**
July 7, 2011

REVISION DATE(S):

**FILE NAME & PATH
(HYPERLINK):**



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 *DB*
Lauri Anderson, Senior Planner *WPA*

DATE: July 12, 2011

SUBJECT: Draft Ordinance 11-0329 for Adoption of Administrative Amendments to Title 17 (Land Division), Title 18 (Zoning) and Title 19 (Planning Policies and Procedures) of the Municipal Code

The July 18, 2011 City Council packet (mailed to Council July 8, 2011) included a draft ordinance for potential adoption of the development code changes. The agenda bill noted that the ordinance was under review by the City Attorney's Office and that a revision might be necessary.

Attached is the revised ordinance incorporating the following minor changes to Exhibit 1 which includes the new Titles 17, 18 and 19. The ordinance itself, and Exhibits 2 and 3 remain unchanged:

- Elimination of 5 severability clauses. (Severability clauses state that the remainder of an ordinance is in effect even if some sections are declared invalid. The adopting ordinance for the administrative amendments, as well as a general severability section for the entire Municipal Code--in Chapter 1.01--makes these individual clauses unnecessary.)
- Elimination in 8 places of the term "of Kenmore" or "Kenmore" as use of the term city (defined as the city of Kenmore) makes this redundant.
- Approximately 21 corrections to cross-references in both new and retained code sections; and
- Approximately 23 miscellaneous corrections made by the City Attorney's Office to address consistency with state law, clarify code sections, etc.

One additional substantive change has been included by staff. Section 19.20.060, addressing initiation of the annual comprehensive plan amendment process, includes a notification to the public for proposed site-specific comprehensive plan amendments. Subsection 19.20.060.F.2.b provides for a public notice of the hearing to residences and employers within 500' of the subject site. To be consistent with new noticing standards for other types of permits (requested by Council at the June 28th, 2011 workshop), staff recommends, and has included language to, expand the area of mailing to 1000'.

Attachments

Attachment 1: Revised Draft Ordinance 11-0329 with Exhibits

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Council Discussion, Direction and Possible Adoption of Ordinance No. 11-0329 An

CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 11-0329

AN ORDINANCE OF THE CITY OF KENMORE, WASHINGTON; REPEALING TITLE 17 LAND DIVISION, TITLE 18 ZONING AND TITLE 19 PLANNING POLICIES AND PROCEDURES OF THE KENMORE MUNICIPAL CODE; ADOPTING NEW TITLE 17 LAND DIVISION, NEW TITLE 18 ZONING AND NEW TITLE 19 LAND USE POLICIES AND PROCEDURES OF THE KENMORE MUNICIPAL CODE; ADOPTING AMENDMENTS TO KMC SECTIONS 2.20.120.A, 12.58.070.C, 12.75.010, 12.75.020.A, 12.75.020.F.1, 13.35.025.B.7.2, 13.35.030.Z, 13.40.070.F, 15.25.050.A.7, 15.25.050.A.10, 15.25.050.A.11, 15.25.050.A.12, 15.25.050.A.16, 15.25.070.A.5, 15.25.070.C, 15.25.140.A AND 21.20.070.B TO PROVIDE CONSISTENT CROSS-REFERENCING TO TITLE 17, TITLE 18 AND TITLE 19 KMC; AMENDING TITLE 20 KMC DEVELOPMENT PERMITS BY ADDING CHAPTER 20.47 ROAD AND PARK IMPACT FEES AND AMENDING SECTION 20.50.010; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council adopted Title 17 Land Division, Title 18 Zoning and Title 19 Planning Policies and Procedures of the Kenmore Municipal Code (KMC), which provide the regulations and procedures that regulate land division and land development for the City consistent with the City's adopted Comprehensive Plan; and

WHEREAS, the City Council desires to adopt new regulations for land division and land development; and

WHEREAS, the new regulations for Title 17, Title 18 and Title 19 KMC are consistent with the City's adopted Comprehensive Plan and eliminate redundancies and inconsistencies, streamline and simplify regulations and permit processes, specify code interpretation and decision making authority and include new regulations for clarity; and

WHEREAS, the new regulations for Title 17, Title 18 and Title 19 KMC support the second of the Council's top five goals, which is to implement the adopted economic development plan that identifies an audit of regulations, zoning, fees and processes as a strategy to support existing businesses and opportunities to expand employment; and

WHEREAS, on May 25, 2011, the City sent notice of the new regulations for Title 17, Title 18 and Title 19 KMC to the Washington State Department of Commerce pursuant to RCW 36.70A.106; and

WHEREAS, on June 20, 2011, the City's Responsible Official issued a Determination of Non-Significance pursuant to the State Environmental Policy Act in relation to the new regulations for Title 17, Title 18 and Title 19 KMC; and

WHEREAS, on June 13, 2011 and June 28, 2011 the City Council considered the new regulations for Title 17, Title 18 and Title 19 KMC and other proposed amendments to the KMC at public meetings; and

WHEREAS, on July 13, 2011 the City Council held a public meeting to receive public input on the new regulations for Title 17, Title 18 and Title 19 KMC; and

WHEREAS, on July 18, 2011 the City Council held a public hearing on the new regulations for Title 17, Title 18, and Title 19 KMC; and

WHEREAS, the City Council desires to repeal Title 17, Title 18 and Title 19 KMC and adopt a new Title 17, Title 18 and Title 19 KMC; and

WHEREAS, the City Council desires to amend KMC Section 2.20.120 Historic Resources – Review Process, Section 12.58.070 Application Review, Section 12.75.010 Components of the integrated transportation program, Section 12.75.020 Procedures for impact fees and intersection standards, Section 13.35.025 King County Surface Water Design Manual adopted, Section 13.35.030 Definitions, Section 13.40.070 Rate adjustments and appeals, Section 15.25.050 Clearing and grading permit require – Exceptions, Section 15.25.070 Permit requirements, Section 15.25.140 Clearing standards, and Section 21.20.070 Landscaping, in order to make these sections consistent with the new Title 17, Title 18 and Title 19 KMC; and

WHEREAS, the City Council desires to amend Title 20 KMC Development Fees by adding Chapter 20.47, Road and Park Impact Fees, and amending Section 20.50.010, School impact fees; 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 Title 17 Land Division, Title 18 Zoning and Title 19 Planning Policies and Procedures of the Kenmore Municipal Code (KMC).

Section 3. Adoption of Title 17 Land Division, Title 18 Zoning and Title 19 Land Use Policies and Procedures of the Kenmore Municipal Code (KMC). The City Council adopts Title 17, Title 18 and Title 19 KMC as set forth in Exhibit 1, attached hereto and incorporated by reference.

Section 4. Map Adopted. The City Council adopts the Site Plan Review Map, attached hereto as Exhibit 2, and incorporated by reference.

Section 5. Amendment. KMC 2.20.120.A “Historic Resources - Review process” is amended to read as follows:

- A. The city shall not approve any development proposal or otherwise issue any authorization to alter, demolish, or relocate any historic resource identified in the city historic resource inventory, pursuant to the requirements of this chapter. The ~~development standards contained in Chapter 18.30 KMC, Development Standards—Density and Dimensions, and Chapter 18.40 KMC, Development Standards—Landscaping and Water Use, Title 18 shall~~ may be expanded/modified, when necessary, to preserve the aesthetic, visual and historic integrity of the historic resource from the impacts of development on adjacent properties.

Section 6. Amendment. KMC 12.58.070.C “Application Review” is amended to read as follows:

- C. The department of community development shall review and evaluate all applications to determine consistency with respect to the standards and requirements of Chapter 18.60 KMC and KMC Title 21. The department shall also be the lead agency for purposes of any environmental review required under Chapter 19.25 ~~35~~ KMC.

Section 7. Amendment. KMC 12.75.010 “Components of the integrated transportation program” is amended to read as follows:

There are two components of the integrated transportation program. These components are as follows:

- A. Impact fees (~~Chapter 18.100~~ Title 20 KMC), by which the city applies transportation impact fees to new development for collecting a fair and equitable share of transportation improvement costs that are needed in accordance with Chapter 82.02 RCW, the city comprehensive plan and ~~Chapter 18.100~~ Title 20 KMC.
- B. Intersection standards (IS) by which the city evaluates intersections affected by new development to assure safe and efficient operation and that improvements to mitigate the adverse impacts of such developments are completed, in accordance with the State Environmental Policy Act (SEPA), KMC 19.35.090 ~~070~~, and the city comprehensive plan and Chapter 12.80 KMC.

Section 8. Amendment. KMC 12.75.020.A and KMC Section 12.75.020.F.1 “Procedures for impact fees and intersection standards” are amended to read as follows:

A. Following the submission of a development application, the department of public works shall determine the transportation impact fee to be paid under ~~Chapter 18.100~~ Title 20 KMC and shall determine the traffic impacts of the proposed development on streetway intersections that will be adversely impacted and which must be mitigated using Chapter 12.80 KMC.

F. Impact fees and fees for IS shall be as follows:

1. All developments subject to the impact fees shall pay an administrative fee as established by ~~Chapter 18.100~~ Title 20 KMC at the time of application for an impact fee determination. Payment for impact mitigation fees shall be paid at the time a development permit is issued, but residential developments may defer payment until building permits are issued; and

Section 9. Amendment. KMC13.35.025.B.7.2 King County Surface Water Design Manual adopted is amended to read as follows:

B.7.

2. Fencing is optional. Fencing may be constructed of wood or chain link material; however maintenance of wood fences will be the responsibility of the property owner or homeowners association. Chain link fencing must be green or black vinyl coated. If fencing is proposed, the landscape plan must include a 10-foot buffer of Type 1 landscaping on the outside of the fenced area, as defined by KMC 18.4035.040(A), together with climbing evergreen shrubs or vines capable of growing on the fence. Alternatives to Type 1 landscaping within the 10-foot buffer may be approved for low fences that do not create significant view blockage.

Section 10. Amendment. KMC 13.35.030.Z Definitions is amended to read as follows:

Z. "Large project drainage review" means the evaluation required by KMC 13.35.040 for any proposed project that:

1. ~~Has an urban plan development ((UPD), as defined in KMC 18.20.3100) land use designation in the city of Kenmore comprehensive plan land use map;~~
2. Would, at full build-out of the project site, result in 50 acres or more of new impervious surface within a drainage sub-basin or a number of sub-basins hydraulically connected across sub-basin boundaries; or
3. ~~Has a project site of 50 acres or more within a critical aquifer recharge area, as defined in Chapter 19.40 KMC.~~

Section 11. Amendment. KMC13.40.070.F Rate adjustments and appeals is amended to read as follows:

F. Decisions of the director on requests for rate adjustments shall be final unless within 30 days of the date the decision was mailed, the applicant submits in writing to the director a notice of appeal setting forth a brief statement of the grounds for appeal and requesting a hearing before the city hearing examiner. The examiner's decision shall be a final decision pursuant to KMC 19.30.060 ~~070~~.

Section 12. Amendment. KMC 15.25.050.A.7, KMC 15.25.050.A10, KMC 15.25.050.A.11, KMC 15.25.050.A.12 and KMC 15.25.050.A.16 Clearing and grading permit required- Exceptions are amended to read as follows:

A.

7. Any clearing or grading for roads within a preliminary or finally approved residential plat which has been approved by the director and for which a financial guarantee has been posted and that meets tree management and protection regulations set forth in Chapter 18.4257 KMC;

10. Clearing or grading within a preliminarily or finally approved residential plat not involving any excavation exceeding five feet in vertical depth or any fill exceeding three feet in vertical depth, regardless of the amount of material to be removed; provided, that this exception does not apply if the clearing or grading is within a critical area as regulated in Chapter 18.55 KMC or an area placed into tracts or easements pursuant to KMC 18.3021.030. This exception does not apply within an area placed into tracts or easements for a wildlife habitat corridor pursuant to ~~Chapter 18.3517.20.130 KMC or 18.30.140~~ KMC unless the proposed activity is otherwise exempt under Chapter 18.55 KMC;

11. Excavation less than five feet in vertical depth not involving more than 100 cubic yards of earth or other material on a single site; provided, that the exception does not apply if the clearing or grading is within a critical area as regulated in Chapter 18.55 KMC or an area placed into tracts or easements pursuant to KMC 18.3021.030. This exception does not apply within an area placed into tracts or easements for a wildlife habitat corridor pursuant to ~~Chapter 18.3517.20.130 KMC or 18.30.140~~ KMC unless the proposed activity is otherwise exempt under Chapter 18.55 KMC;

12. Fill less than three feet in vertical depth not involving more than 100 cubic yards of earth or other material on a single site; provided, that the exception does not apply if the clearing or grading is within a critical area as regulated in Chapter 18.55 KMC or an area placed into tracts or easements pursuant to KMC 18.3021.030. This exception does not apply within an area placed into tracts or easements for a wildlife habitat corridor pursuant to ~~Chapter 18.3517.20.130 KMC or 18.30.140~~ KMC unless the proposed activity is otherwise exempt under Chapter 18.55 KMC;

16. Clearing outside of critical areas and buffers as regulated in Chapter 18.55 KMC, unless the development proposal site is within an area subject to clearing restrictions contained in KMC 15.25.140, wildlife habitat corridors pursuant to ~~Chapter 18.3517.20.130 KMC or 18.30.140~~ KMC, critical drainage areas established by administrative rule or property-specific development standards pursuant to Chapter 18.8247 KMC.

Section 13. Amendment. KMC 15.25.070.A.5 and KMC 15.25.070.C Permit Requirements are amended to read as follows:

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Except as exempted in KMC 15.25.050, no person shall do any clearing or grading without first obtaining a clearing and grading permit from the director. A separate permit shall be required for each site and may cover both excavations and fills.

A. Application. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished for that purpose. The director shall prescribe the form by which application is made. No application shall be accepted unless it is completed consistent with the requirements of this chapter and Chapter 19.25 KMC, Procedures for Land Use ~~Permit Applications~~Decisions, Public Notice, Hearings and Appeals. In addition to the requirements of KMC 19.25.040 every application shall:

5. Identify any clearing restrictions contained in KMC 15.25.140, wildlife habitat corridors pursuant to ~~Chapter 18.35~~17.20.130 KMC or 18.30.140 KMC, critical drainage areas established by administrative rule or property-specific development standards pursuant to Chapter 18.~~8247~~247 KMC;

C. Information on Plans and in Specifications. Plans shall be drawn to an engineer's scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this chapter and all other relevant laws, rules, regulations and standards. The first sheet of each set of plans shall give the location of the work and the name and address of the owner and the person by whom they were prepared. The plans shall include the following minimum information:

1. General vicinity of the proposed site;
2. Property limits and accurate contours of existing ground and details of terrain and area drainage;
3. Limiting dimensions, elevations or finished contours to be achieved by the grading, and proposed drainage channels and related construction;
4. Location of all proposed cleared areas;
5. Location of any open space tracts or conservation easements if required pursuant to:
 - a. KMC 15.25.140,
 - b. ~~Chapter 18.35~~ KMC 17.20.130 or KMC 18.30.140,
 - c. Critical drainage area, or
 - d. Property-specific development standards pursuant to Chapter 18.~~8247~~247 KMC;

Section 14. Amendment. KMC Section 15.25.140.A Clearing standards is amended to read as follows:

A. For clearing and grading permits issued under this chapter, the current clearing standards contained in this section and in the following regulations shall apply:

1. Chapter 18.55 KMC, Critical Areas, and its adopted administrative rules;
2. Property-specific development standards pursuant to Chapter 18.~~8247~~247 KMC;
3. Critical drainage area designations identified by adopted administrative rule; and
4. Wildlife habitat corridors pursuant to ~~Chapter 18.35~~17.20.130 KMC or 18.30.140 KMC.

Section 15. Amendment. KMC 21.20.070.B Landscaping is amended to read as follows:

B. Performance guarantees for landscaping required pursuant to Chapter 18.40~~35~~³⁵ KMC shall be sufficient to cover the cost of conformance with conditions of the permit, and shall be required for a period of two years after the planting or transplanting of vegetation to insure proper installation, establishment and maintenance. This time period may be extended by one year by the director, if necessary to cover a planting and growing season.

Section 16. Amendment. KMC Title 20 Development Permits is amended to add Chapter 20.47 Road and Park Impact Fees as set forth in Exhibit 3, attached hereto and incorporated by reference, and KMC 20.50.010, School impact fees is amended to read as follows:

School impact fees are assessed and collected by the Northshore School District No. 417 in an amount established by ordinance for each new single-family dwelling unit and for each new multifamily dwelling unit. Impact fees may be assessed and collected as long as the fees are used to fund capital and system improvements needed to serve the new development, and as long as the use of such fees is consistent with the requirements of Chapter 82.02 RCW and this chapter. Pursuant to Chapter 82.02 RCW, impact fees may also be used to recoup capital and system improvement costs previously incurred by a school district to the extent that new growth and development will be served by the previously constructed improvements or incurred costs. [Ord. 99-0058 § 1; Ord. 98-0020 § 1 (KCC 27.44.010).]

Section 17. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 18. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF
ON THE ____ DAY OF _____, 2011

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.:
Date of Publication:
Effective Date:

Title 17

LAND DIVISION

Chapters:

- 17.05 Purpose**
- 17.10 Definitions**
- 17.15 General**
- 17.20 Subdivisions and Short Subdivisions**
- 17.25 Final Plat and Final Short Plat**
- 17.30 Binding Site Plans**
- 17.40 Boundary Line Adjustments**

Chapter 17.05

PURPOSE

Sections:

- 17.05.010 Purpose.

17.05.010

Purpose.

The purpose of this title is to:

- A. Establish the authority and procedures for segregating land in the *city*.
- B. Define and regulate divisions of land that are exempt from the *short subdivision* or *subdivision* requirements.
- C. Ensure consistency with and implement the *city* comprehensive plan as amended in accordance with the Washington State Growth Management Act, RCW 36.70A.120.
- D. Require uniform monumenting of land subdivisions and conveyance by accurate legal description.
- E. Protect and preserve the public health, safety and general welfare in accordance with the standards established by the *city* and the state of Washington.
- F. Ensure consistency with Chapter 58.17 RCW. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.01.010).]

Chapter 17.10

DEFINITIONS

Sections:

- 17.10.005 Scope of chapter.
- 17.10.010 Acre.
- 17.10.020 Alteration.
- 17.10.030 Applicant.
- 17.10.040 Binding site plan.
- 17.10.050 Building envelope.
- 17.10.060 Building site.
- 17.10.065 City.
- 17.10.067 City manager.
- 17.10.070 Civil engineer.
- 17.10.080 Condominium.
- 17.10.090 Dedication.

17.10.100	Department.
17.10.110	Development engineer.
17.10.130	Easement.
17.10.150	Financial guarantee.
17.10.160	General site plan.
17.10.180	Improvements.
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17.10.200	Land surveyor.
17.10.210	Lot.
17.10.220	Nonbuilding lot.
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17.10.240	Parent parcel.
17.10.250	Plat, final.
17.10.260	Plat, preliminary.
17.10.270	Revision.
17.10.280	Segregation.
17.10.290	Short plat, final.
17.10.300	Short plat, preliminary.
17.10.310	Short subdivision.
17.10.320	Subdivision.
17.10.330	Tract.

17.10.005

Scope of chapter.

This chapter contains definitions of technical and procedural terms used throughout this title. Defined terms are shown in italics in the text of the title.

17.10.010

Acre.

“Acre” means an area of land equal to 43,560 square feet. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.010).]

17.10.020

Alteration.

“Alteration” means the modification of a previously recorded plat, short plat, *binding site plan*, or any portion thereof, that results in modifications to conditions of approval, the addition of new *lots* or more land, or the deletion of existing *lots* or the removal of plat or lot restrictions or *dedications* that are shown on the recorded plat. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.020).]

17.10.030

Applicant.

“Applicant” means a property owner, or a public agency or public or private utility that owns a right-of-way or other *easement* or has been adjudicated the right to such *easement* pursuant to RCW 8.12.090, or any person or entity designated or named in writing by the property or *easement* owner to be the applicant, in an application for a development proposal, permit or approval. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.030).]

17.10.040

Binding site plan.

“Binding site plan” means a plan drawn to scale processed in accordance with KMC 17.30.010 through 17.30.060 and Chapter 58.17 RCW. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.040).]

17.10.050

Building envelope.

“Building envelope” means the area of a *lot* that delineates the limits of where a building may be placed on a *lot*. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.050).]

17.10.060

Building site.

“Building site” means a parcel, consisting of one or more *lots* or portions thereof, that is capable of being developed under current federal, state, and local statutes, including zoning and use provisions, dimensional standards, minimum lot area for construction, minimum lot width, shoreline master program provisions, critical area provisions, health and safety provisions. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.060).]

17.10.065

City.

“City” means the city of Kenmore.

17.10.067

City manager.

“City manager” means the city of Kenmore city manager or his or her designee(s).

17.10.070

Civil engineer.

“Civil engineer” means an individual registered and licensed as a professional civil engineer pursuant to Chapter 18.43 RCW. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.070).]

17.10.080

Condominium.

“Condominium” means real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions as defined in Chapters 64.32 and 64.34 RCW. Real property is not a condominium unless the undivided interests in the common elements are vested in the unit owners and unless a declaration, survey map and plans have been recorded pursuant to Chapter 64.32 or 64.34 RCW. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.080).]

17.10.090

Dedication.

“Dedication” means the deliberate conveyance of land by an owner for any general and public uses, reserving no rights other than those that are compatible with the full exercise and enjoyment of the public uses for which the property has been conveyed. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a *final plat*, *final short plat* or *binding site plan* showing the dedication thereon or quit claim deed. The acceptance by the public shall be evidenced by the approval of such plat, short plat, *binding site plan* or quit claim deed for filing by the *city*. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.090).]

17.10.100

Department.

“Department” means the *city* department or outside agency assigned by the *city manager* to administer a portion of the *city* code.

17.10.110**Development engineer.**

“Development engineer” means the *city manager*, authorized to oversee the review, conditioning, inspection and acceptance of right-of-way use permits, street and drainage projects constructed pursuant to permits administered by the *department* and required pursuant to this title. The *city manager* or his or her designee acting as the development engineer shall be a professional *civil engineer* registered and licensed pursuant to Chapter 18.43 RCW. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.110).]

17.10.130**Easement.**

“Easement” means a right granted by a property owner to specifically named parties or to the public for the use of certain land for specified purposes that may include, but are not limited to, street access, pedestrian or bicycle pathways, minerals, utility easements, drainage and open space. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.130).]

17.10.150**Financial guarantee.**

“Financial guarantee” means a form of financial security posted to ensure timely and proper completion of *improvements*, compliance with this code or to warrant materials, workmanship of *improvements*, and design. Financial guarantees include assignments of funds, cash deposits, surety bonds, and other forms of financial security acceptable to the *city manager*. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.150).]

17.10.160**General site plan.**

“General site plan” means a site plan approved pursuant to this title that is not based on a building permit, an as-built site plan for developed sites or a site plan review. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.160).]

17.10.180**Improvements.**

“Improvements” mean constructed appurtenances, including but not limited to street and drainage construction, utility installation, recreational features, lot grading prior to a building permit, plat monument signs, survey monuments. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.180).]

17.10.190**Innocent purchaser.**

“Innocent purchaser” means an individual who has purchased real property for value and states under oath that he or she had no knowledge at any time prior to or during the sale that the *lot* had been or is being created in violation of the provisions of this title. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.190).]

17.10.200**Land surveyor.**

“Land surveyor” means an individual licensed as a land surveyor pursuant to Chapter 18.43 RCW. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.200).]

17.10.210**Lot.**

“Lot” means a physically separate and distinct parcel of property that has been created pursuant to the provisions of this title, or pursuant to any previous laws governing the *subdivision*, *short subdivision* or *segregation* of land. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.210).]

17.10.220

Nonbuilding lot.

“Nonbuilding lot” means a *lot* created, defined as a nonbuilding lot on the face of the plat or short plat, for which improvements for the purpose of human habitation or occupancy are prohibited. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.220).]

17.10.230

Ownership interest.

“Ownership interest” means having property rights as a fee owner or contract purchaser. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.230).]

17.10.240

Parent parcel.

“Parent parcel” means each existing *lot* that is located within the perimeter of a proposed boundary line adjustment application. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.240).]

17.10.250

Plat, final.

“Final plat” means the final drawing of the *subdivision* and *dedication* prepared for filing with the *city* and containing all elements and requirements set forth in this title and in Chapter 58.17 RCW. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.250).]

17.10.260

Plat, preliminary.

“Preliminary plat” means a neat and approximate drawing of a proposed *subdivision* showing the general layout of streets, alleys, *lots*, blocks and other elements of a *subdivision* required by this title and Chapter 58.17 RCW. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a *subdivision*. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.260).]

17.10.270

Revision.

“Revision” means a change prior to recording of a previously approved *preliminary plat*, *preliminary short plat* or *binding site plan* that may include, but is not limited to, the addition of new *lots*, *tracts* or parcels. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.270).]

17.10.280

Segregation.

“Segregation” means a division of land by any of the following means: *subdivisions*, *short subdivisions*, and *binding site plans*. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.280).]

17.10.290

Short plat, final.

“Final short plat” means the final drawing of the *short subdivision* and *dedication* prepared for filing with the *city* and containing all elements and requirements set forth in this title and in Chapter 58.17 RCW. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.290).]

17.10.300

Short plat, preliminary.

“Preliminary short plat” means a neat and approximate drawing of a proposed *short subdivision* showing the general layout of streets, alleys, *lots*, blocks and other elements of a *short subdivision* required by this title and Chapter 58.17 RCW. The preliminary short plat shall be the basis for the approval or disapproval of the general layout of a subdivision. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.300).]

17.10.310**Short subdivision.**

“Short subdivision” means a division or redivision of land nine or fewer *lots, tracts*, parcels or sites for the purpose of sale, lease or transfer of ownership. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.310).]

17.10.320**Subdivision.**

“Subdivision” means a division or redivision of land into ten or more *lots, tracts* or parcels for the purpose of sale, lease or transfer of ownership. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.320).]

17.10.330**Tract.**

“Tract” means land reserved for specified uses including, but not limited to, reserve tracts, recreation, open space, critical areas, surface water retention, utility facilities and access. Tracts are not considered *lots* or *building sites* for purposes of residential dwelling construction. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.04.330).]

Chapter 17.15**GENERAL**

Sections:

- 17.15.010 Scope of chapter.
- 17.15.020 Adverse possession lawsuit – Consent or judgment required.
- 17.15.030 Transfer of land or granting of an easement to a public agency.
- 17.15.040 Exemptions – Subdivision and short subdivision.
- 17.15.050 Recording map and legal descriptions.
- 17.15.060 Review for conformity with other codes, plans and policies.
- 17.15.070 Determining and maintaining legal status of a lot.
- 17.15.080 Removing limitations on nonbuilding lots.
- 17.15.090 Determining innocent purchaser status.
- 17.15.120 Affidavit of correction.
- 17.15.130 Vertical and horizontal survey controls.
- 17.15.140 Financial guarantees.
- 17.15.150 Application requirements for preliminary plats, preliminary short plats and preliminary binding site plans.
- 17.15.170 Violations and enforcement.
- 17.15.190 Rules.

17.15.010**Scope of chapter.**

This chapter contains provisions general to the administration of land *segregation*. Any *segregation* of land is subject to the provisions of this title except as stated herein. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.08.010).]

17.15.020**Adverse possession lawsuit – Consent or judgment required.**

Applications for *segregation* allowed by this title concerning lands on which there is a pending lawsuit for adverse possession will not receive final approval without the consent of the adverse possession claimant or until a trial court judgment settling the lawsuit is entered. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.08.020).]

17.15.030**Transfer of land or granting of an easement to a public agency.**

The transfer of land or granting of an *easement* to a public agency for street and utility purposes shall not be considered a *segregation* of land. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.08.030).]

17.15.040**Exemptions – Subdivision and short subdivision.**

The *subdivision* and *short subdivision* provisions of this title shall not apply to:

- A. Divisions of lands for cemeteries and other burial plots while used for that purpose.
- B. Divisions of land into *lots* or *tracts* that are one-one-hundred-twenty-eighth of a section, or five *acres* or larger only for the purpose of allowing fee simple purchase or deeding of such *lots* or *tracts* to public agencies.
- C. Divisions of land made by testamentary provisions or laws of descent.
- D. Divisions of land into *lots* or *tracts* consistent with RCW 58.17.040(7), for which a condominium *binding site plan* has been recorded in accordance with the *binding site plan* provisions set forth in this title.
- E. An adjustment of boundary lines in accordance with the provisions of this title.
- F. Divisions of land for the purpose of lease when no residential structures other than mobile homes are permitted to be placed upon the land and for which a *binding site plan* for the use of the land as a mobile home park has been approved by the *city manager*.
- G. Divisions of land by *binding site plan* into *lots* or *tracts* classified for industrial or commercial use consistent with the *binding site plan* provisions of this title.
- H. Divisions of land by a public roadway or freeway, as defined by the adopted roadway functional classification system, that is planned, established, financed and constructed by a state or city agency after January 1, 2000. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.08.040).]
- I. A division for purposes of leasing land for facilities providing personal wireless services while used for that purpose as described in RCW 58.17.040(8).
- J. A division of land into *lots* or *tracts* of less than three *acres* to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities as defined in RCW 58.17.040(9).

17.15.050**Recording map and legal descriptions.**

The final recording map and legal description of a plat, short plat, boundary line adjustment or *binding site plan* shall be prepared by a *land surveyor* in accordance with Chapter 58.09 RCW and Chapter 332-130 WAC, Surveys and Recording, and be recorded with the King County office of records and elections as required by this title. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.08.050).]

17.15.060**Review for conformity with other codes, plans and policies.**

Applications for approvals pursuant to this title shall be reviewed in accordance with the applicable procedures of any combination of this title and Chapters 19.25 and 19.30 KMC. Furthermore, applications for *subdivisions*, *short subdivisions* and *binding site plans* may be approved, approved with conditions or denied in accordance with the following adopted rules, regulations, plans and policies including, but not limited to:

- A. Chapter 43.21C RCW (SEPA);
- B. Chapter 58.17 RCW (Subdivisions);
- C. Chapters 36.70A and 36.70B RCW (Growth Management and Project Review);
- D. Chapter 1.20 KMC (Code Enforcement);
- E. KMC Title 12 (Streets and Bridges);
- F. KMC Title 13, Division I (Water and Sewer Systems);
- G. KMC Title 13, Division II (Surface and Stormwater Utility);
- H. KMC Title 15 (Buildings and Construction);
- I. KMC Title 16 (Environment);
- J. KMC Title 18 (Zoning);
- K. Chapter 19.35 KMC (Environmental Procedures);

- L. Administrative rules adopted;
- M. Seattle/King County public health rules and regulations;
- N. *City* comprehensive plan;
- O. County-wide planning policies;
- P. This title. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.08.060).]

17.15.070**Determining and maintaining legal status of a lot.**

A. A property owner may request that the *department* determine whether a *lot* was legally segregated. The property owner shall demonstrate to the satisfaction of the *department* that a *lot* was created in compliance with applicable state and local land *segregation* statutes or codes in effect at the time the *lot* was created, including, but not limited to, demonstrating that the *lot* was created:

1. Prior to June 9, 1937 and the *lot* has been:
 - a. Provided with approved sewage disposal or water systems or streets; or
 - b. Conveyed as an individually described parcel to separate, noncontiguous ownerships through a fee simple transfer or purchase prior to October 1, 1972;
 - c. Recognized prior to October 1, 1972 as a separate tax lot by the county assessor;
2. Through a review and approval process recognized by the *city* for the creation of four *lots* or less from June 9, 1937 to October 1, 1972 or the subdivision process on or after June 9, 1937;
3. Through the *short subdivision* process on or after October 1, 1972; or
4. Through the following alternative means allowed by the state statute or *city* code:
 - a. For the raising of agricultural crops or livestock, in parcels greater than 10 *acres*, between September 3, 1948, and August 11, 1969;
 - b. For cemeteries or other burial plots, while used for that purpose, on or after August 11, 1969;
 - c. At a size five *acres* or greater, recorded between August 11, 1969, and October 1, 1972, and did not contain a *dedication*;
 - d. At a size 20 *acres* or greater, recognized prior to the effective date of this title; provided, however, for remnant *lots* not less than 17 *acres* and no more than one per quarter section;
 - e. Upon a court order entered between August 11, 1969 and July 1, 1974;
 - f. Through testamentary provisions or the laws of descent after August 10, 1969;
 - g. Through an assessor's plat made in accordance with RCW 58.18.010 after August 10, 1969;
 - h. As a result of deeding land to a public body after April 3, 1977, and that is consistent with the *city* zoning code, access and Seattle/King County public health requirements so as to qualify as a *building site* pursuant to KMC 17.10.060; or
 - i. By a partial fulfillment deed pursuant to a real estate contract recorded prior to October 1, 1972, and no more than four *lots* were created per the deed.

B. In requesting a determination, the property owner shall submit evidence, deemed acceptable to the *department*, such as:

1. Recorded subdivisions or division of land into four *lots* or less;
2. King County or *city* documents indicating approval of a *short subdivision*;
3. Recorded deeds or contracts describing the *lot* or *lots* either individually or as part of a conjunctive legal description (e.g., Lot 1 and Lot 2); or
4. Historic tax records or other similar evidence, describing the *lot* as an individual parcel. The *department* shall give great weight to the existence of historic tax records or tax parcels in making its determination.

C. Once the *department* has determined that the *lot* was legally created, the *department* shall continue to acknowledge the *lot* as such, unless the property owner re-aggregates or merges the *lot* with another *lot* or *lots* in order to:

1. Create a parcel of land that would qualify as a *building site*; or
2. Implement a deed restriction or condition, a covenant or court decision.

D. The *department's* determination shall not be construed as a guarantee that the *lot* constitutes a *building site* as defined in KMC 17.10.060.

E. Re-aggregation of *lots* after January 1, 2000 shall only be the result of a deliberate action by a property owner expressly requesting a permanent merger of two or more *lots*. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.08.070).]

17.15.080

Removing limitations on nonbuilding lots.

Limitations placed on a *nonbuilding lot* may be removed and the *lot* recognized by the *city* as a building lot by approval of a *subdivision*, *short subdivision*, *binding site plan* or *alteration* of a plat, short plat or *binding site plan*. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.08.080).]

17.15.090

Determining innocent purchaser status.

A. An *innocent purchaser* of a parcel divided in violation of *city* subdivision requirements who files a notarized affidavit of innocent purchase with the *department* on forms approved by the *city manager* may seek to establish the parcel's eligibility for *city* development approvals and for lawful future conveyance; provided, that nothing herein is intended to exempt development on innocent purchaser *lots* from compliance with development standards of the *city's* zoning code.

B. All contiguous parcels divided in violation of this title that are under common ownership at the time of application for innocent purchaser status shall be recognized only as a single *lot*.

C. Innocent purchaser status shall not be granted to any individual or group more than once. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.08.090).]

17.15.120

Affidavit of correction.

A. Any map page or document on file with the records and elections division under the provisions of this title that contains an error in fact or omission may be amended by an affidavit of correction. The following types of errors may be corrected by affidavit:

1. Any courses, distances or elevations omitted from the recorded document;
2. An error in any courses, distances or elevations shown on the recorded document;
3. An error in the description of the real property shown on the recorded document;
4. An error in the field location of any shown *easement*; or
5. Any other error or omission where the error or omission is ascertainable from the data shown on the recorded document.

B. Nothing in this section shall be construed to permit changes in courses, distances or elevations for the purpose of redesigning *lot* or *tract* configurations.

C. The affidavit of correction shall contain the seal and signature of the *land surveyor* making the correction.

D. The affidavit of correction shall set forth in detail the corrections made and show the names of the present fee owners of the property materially affected by the correction. The notarized signatures of the owners shall be required, if deemed necessary by the *department*.

E. The affidavit of correction form, as provided by the *department*, shall be submitted to the *department* for review and approval and shall include signatures of the *development engineer*, the *city manager*, and the King County assessor. After *department* approval, the affidavit shall be recorded with the records and elections division. Submittals shall include payment of fees as authorized by KMC Title 20.

17.15.130

Vertical and horizontal survey controls.

A. Vertical Requirements. The vertical datum on all engineering plans, plats, *binding site plans* and short plats shall be the North American Vertical Datum of 1988 (NAVD 88) and shall be tied to at least one *city* survey control network benchmark. The benchmark will be shown on the plans. If a *city* survey control network benchmark does not exist within one-half mile of the subject property, or 250 feet or greater of total vertical difference exists between the starting benchmark and the project, an alternate vertical datum may be used.

B. Horizontal Requirements. The horizontal component of all plats, *binding site plans* and short plats shall have the North American Datum of 1983 (2007) as its coordinate base and basis for bearings. All horizontal control for these projects shall be referenced to a minimum of two *city* survey horizontal control monuments. If two horizontal control monuments do not exist within one mile of these projects, an alternate coordinate base and basis of bearings may be used. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.08.130).]

17.15.140**Financial guarantees.**

Notwithstanding any other provision of this title, the *city manager* is authorized to require all *applicants* issued permits or approvals under the provisions of this title to post *financial guarantees* consistent with the provisions of KMC Title 21. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.08.140).]

17.15.150**Application requirements for preliminary plats, preliminary short plats and preliminary binding site plans.**

The *applicant* shall file the following information with the *department* in addition to those application requirements described in KMC 19.25.040:

- A. A complete permit application, with supporting affidavits, on forms provided by the *department*;
- B. Information requested on the application checklist provided by the *department*; and
- C. Any additional information or materials that the *department* specifies at the pre-application meeting.

17.15.170**Violations and enforcement.**

Any person or entity that violates any provision of this title shall, in addition to any remedies and sanctions provided for under state law, be subject to the enforcement provisions of Chapter 1.20 KMC. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.08.170).]

17.15.190**Rules.**

The *city manager* is authorized to adopt rules to implement the provisions of this title. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.08.190).]

Chapter 17.20**SUBDIVISIONS AND SHORT SUBDIVISIONS**

Sections:

- 17.20.010 Purpose.
- 17.20.020 Preliminary subdivision – Approval time.
- 17.20.030 Revisions of preliminary subdivisions.
- 17.20.040 Preliminary short subdivision – Approval time.
- 17.20.050 Limitations for short subdivisions.
- 17.20.060 Revisions of preliminary short subdivisions.
- 17.20.070 Traffic analysis required.
- 17.20.080 Adequacy of access.
- 17.20.100 Public street rights-of-way.
- 17.20.105 Street signage.
- 17.20.107 Street lighting.
- 17.20.110 Limitations within future street corridors.
- 17.20.120 General layout standards.
- 17.20.125 Lot segregations – Zero lot line development.
- 17.20.130 Lot segregations – Clustered development.
- 17.20.140 Maintenance of private streets, easements and utilities required.

17.20.150 Preliminary subdivision and short subdivision approval.

17.20.010

Purpose.

The purpose of this chapter is to specify additional requirements for the *segregation* of land into *short subdivisions*, which are nine or fewer *lots*, and *subdivisions*, which are ten or more *lots*, in accordance with applicable Washington state and *city* laws, rules and regulations, including permit processing procedures required by Chapter 19.25 KMC. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.12.010).]

17.20.020

Preliminary subdivision – Approval time.

A. Effective until December 31, 2014, preliminary *subdivision* approval shall be effective for a period of 7 years. Effective December 31, 2014, preliminary *subdivision* approval shall be effective for a period of five years. For those unexpired preliminary approvals issued prior to December 3, 2009, the *department*, upon receipt of an extension fee prior to expiration, shall extend the 5-year approval period for an additional 2 years.

B. Preliminary *subdivision* approval shall be considered the basis upon which the *applicant* may proceed toward development of the *subdivision* and preparation of the *final plat* subject to all the conditions of the preliminary approval.

C. If the *final plat* is being developed in divisions, and *final plats* for all of the divisions have not been recorded within the time limits provided in this section, preliminary *subdivision* approval for all unrecorded divisions shall become void. The preliminary *subdivision* for any unrecorded divisions must again be submitted to the *department* with a new application, subject to the fees and regulations applicable at the time of submittal. [Ord. 09-0301 § 1 (Att. A); Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.12.020).]

17.20.030

Revisions of preliminary subdivisions.

Applications to revise *subdivisions* that have received preliminary approval shall comply with the following:

A. *Revisions* that result in any substantial changes as determined by the *department* shall be treated as a new application for purposes of vesting and shall be reviewed as Type 3 land use decision pursuant to KMC 19.25.020. For the purpose of this section, substantial change always includes the creation of additional *lots*, the elimination of open space or significant changes to conditions of approval on an approved preliminary *subdivision*. Other factors to be considered by the *department* when identifying substantial change include:

1. street impacts, such as a change in access location(s) of internal streets; change from a public to a private street; relocation of a street within the *subdivision*; request for a street standards variance; and/or elimination of a right-of-way dedication;
2. a reorientation of *lots* that would change impacts to neighboring properties;
3. changes in proposed housing types;
4. changes to critical area impacts; and/or
5. changes to utility locations that would result in new impacts on neighboring properties.

B. Approval of the following modifications by the *department* shall not be considered *revisions*:

1. Engineering design, unless the proposed design alters or eliminates features specifically required as a condition of preliminary *subdivision* approval or that results in a substantial change as described in KMC 17.20.030(A);
2. Changes in lot dimensions that are consistent with KMC Title 18;
3. A decrease in the number of *lots* to be created so long as the decrease allows for future compliance with the minimum density provisions of KMC Title 18, if applicable. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.12.030).]

17.20.040**Preliminary short subdivision – Approval time.**

Effective until December 31, 2014, preliminary approval of a *short subdivision* shall be effective for a period of 7 years. Effective December 31, 2014, preliminary approval of a *short subdivision* shall be effective for a period of five years. For those unexpired preliminary approvals issued prior to December 3, 2009, the *department*, upon receipt of an extension fee prior to expiration, shall extend the 5-year approval period for an additional 2 years. [Ord. 09-0301 § 1 (Att. A); Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.12.040).]

17.20.050**Limitations for short subdivisions.**

- A. A maximum of nine *lots* may be created by a single application.
- B. An application for further *segregation* may not be submitted within a period of five years after recording, except through the filing of a *subdivision* application, or unless the short plat contains fewer than four *lots*, in which case an *alteration* application may be submitted to create a cumulative total of up to four *lots* within the original short plat boundary. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.12.050).]

17.20.060**Revisions of preliminary short subdivisions.**

Applications to revise *short subdivisions* that have received preliminary approval shall comply with the following:

A. *Revisions* that result in any substantial changes as determined by the *department* shall be treated as a new application for purposes of vesting and shall be reviewed as Type 2 land use decision pursuant to KMC 19.25.020. For the purpose of this section, substantial change always includes the creation of additional *lots*, the elimination of open space or significant changes to conditions of approval on an approved preliminary *short subdivision*. Other factors to be considered by the *department* when identifying substantial change include:

1. street impacts, such as a change in access location(s) of internal streets; change from a public to a private street; relocation of a street within the *short subdivision*; request for a street standards variance; and/or elimination of a right-of-way dedication;
2. a reorientation of *lots* that would change impacts to neighboring properties;
3. changes in proposed housing types;
4. changes to critical area impacts; and/or
5. changes to utility locations that would result in new impacts on neighboring properties.

B. Approval of the following modifications by the *department* shall not be considered *revisions*:

1. Engineering design, unless the proposed design alters or eliminates features specifically required as a condition of preliminary *short subdivision* approval or that results in a substantial change as described in KMC 17.20.060(A);
2. Changes in lot dimensions that are consistent with KMC Title 18;
3. A decrease in the number of *lots* to be created so long as the decrease allows for future compliance with the minimum density provisions of KMC Title 18, if applicable. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.12.060).]

17.20.070**Traffic analysis required.**

All subdivision applications, excluding *short subdivisions* of four *lots* or less, shall include a traffic analysis in a format prescribed by the *department*. The *city manager* may, upon review of the *applicant's* proposal, waive or modify this requirement. [Ord. 98-0019 § 3.]

17.20.080**Adequacy of access.**

- A. Each *lot* within a *subdivision* or *short subdivision* shall have acceptable access to a street conforming to

city street standards or to a different level of improvement acceptable to the *development engineer*. The circulation system of a proposed *subdivision* or *short subdivision* shall intersect with existing and anticipated streets abutting the site at safe and convenient locations, as determined by the *department* and the *development engineer*. Individual *lots* may be served by access panhandles established either by fee ownership or *easement*, subject to approval of the *development engineer*. In order to assure safe and adequate access, the *development engineer*:

1. May approve private streets, provided the private street requirements contained in the *city* street standards of Chapter 12.50 KMC are met;
2. May limit direct access to certain streets and require on-site public or private streets in lieu of individual driveways or access panhandles, in accordance with the *city* street standards;
3. Shall require off-site *improvements* to public or private streets needed to provide access from the *subdivision* or *short subdivision* to an acceptable street; and
4. Shall assure that the number of *lots* to be served by the street system complies with the street standards.

17.20.100

Public street rights-of-way.

As a result of the impact created by a proposed development, *dedication* or deeding to the *city* of right-of-way or a portion thereof for public streets in accordance with *city* street standards shall be required within or along the boundaries of all *subdivisions* and *short subdivisions* or of any *lot* or *lots* within them:

- A. Where the six-year capital improvement plan indicates the necessity of a new right-of-way or portion thereof for street purposes;
- B. Where necessary to extend or to complete the existing or future neighborhood street pattern as shown on the *city* street map (see KMC Title 12);
- C. Where necessary to provide additions of right-of-way to existing *city* right-of-way;
- D. Where necessary to conform to *city* street standards or *city* street improvement projects; or
- E. Where necessary to provide a public transportation system that supports future development of abutting property consistent with the *city* comprehensive plan.

17.20.105

Street signage.

Street signage is required for all new *short subdivisions* and *subdivisions* unless otherwise approved by the *city manager*. The *city manager* will determine the appropriate location, size and type of motor vehicle and pedestrian traffic signs, as well as street name signs, for every public or private street associated with a *short subdivision* or *subdivision*. The *city* or its designee will manufacture and install such signs, at the cost and expense of the *applicant*. The *applicant* shall reimburse the *city* for the cost of these signs prior to *final plat* or *final short plat* approval.

17.20.107

Street lighting.

Street lighting is required for all new *short subdivisions* or *subdivisions* unless otherwise approved by the *city manager*. The *city manager* will determine the appropriate location, size and type of street lighting for every public or private street associated with a *short subdivision* or *subdivision*. The *city* or its designee will design, procure materials and install such lighting, at the cost and expense of the *applicant*. The *applicant* will be invoiced directly for the design, materials and installation costs associated with these lights by the *city* or its designee. The *applicant* shall pay the invoice(s) prior to *final plat* or *final short plat* approval.

17.20.110

Limitations within future street corridors.

In order to allow for the development of future street corridors that would complete the public circulation system or that would provide a sole source of access for an abutting property, the *city* may limit *improvements* within specific areas of a proposed *subdivision* or *short subdivision*. These limitations may preclude the construction of buildings, driveways, drainage facilities or other *improvements* within specified areas as

identified through KMC 17.20.100(A) through (E). [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.08.110).]

17.20.120

General layout standards.

For residential developments in the R zones:

- A. The maximum length of blocks shall be 1,320 feet; and
- B. Except for corner *lots*, *lots* for single detached dwellings shall not have street frontage along two sides unless one of said streets is a neighborhood collector street or an arterial street. [Ord. 98-0026 §§ 1, 2 (KCC 21A.14.020).]
- C. *Lots* shall be designed to avoid unusual configurations or narrow extensions that could make use difficult or confusing for future property-owners. No portion of a *lot* shall be narrower than 25', with the exception of cul-de-sac *lots* at the street frontage or an access panhandle approved by the *development engineer*. The lot width standards in Title 18 also apply. Exceptions for unusual conditions may be considered on a case-by-case basis by the *city manager*.

17.20.125

Lot segregations – Zero lot line development.

In any R zone or in the NB zone, interior setbacks may be modified during *subdivision* or *short subdivision* review as follows:

- A. If a building is proposed to be located within a normally required interior setback:
 - 1. An *easement* shall be provided on the abutting *lot* of the subdivision that is wide enough to ensure a 10-foot separation between the walls of structures on adjoining *lots*, except as provided for common wall construction;
 - 2. The *easement* area shall be free of permanent structures and other obstructions that would prevent normal repair and maintenance of the structure's exterior;
 - 3. Buildings utilizing reduced setbacks shall not have doors that open directly onto the private yard areas of abutting property. Windows in such buildings shall not be oriented toward such private yard areas unless they consist of materials such as glass block, textured glass, or other opaque materials, and shall not be capable of being opened, except for clerestory-style windows or skylights; and
 - 4. The *final plat* or short plat shall show the approximate location of buildings proposed to be placed in a standard setback area.
- B. In the R zones, setbacks on existing individual *lots* may be modified; provided, that the standards set forth in subsection (A)(1) of this section are met. [Ord. 98-0026 §§ 1, 2 (KCC 21A.14.030).]

17.20.130

Lot segregations – Clustered development.

When residential *lot* clustering is proposed, the following provisions shall be met:

- A. Any open space resulting from *lot* clustering shall not be altered or disturbed except as specified on recorded documents creating the open space. Such open spaces may be retained under ownership by the subdivider, conveyed to residents of the development, or conveyed to a third party. When access to the open space is provided, the access shall be located in a separate *tract*;
- B. In the R-1 zone, open space *tracts* created by clustering required by KMC 18.21.030 shall be located and configured to create urban separators and greenbelts as required by the comprehensive plan or open space functional plans; to connect and increase protective buffers for critical areas; to connect and protect wildlife habitat corridors designated by the comprehensive plan; and to connect existing or planned public parks or trails. The *city* may require open space *tracts* created under this subsection to be dedicated to an appropriate managing public agency or qualifying private entity such as a nature conservancy. [Ord. 98-0026 §§ 1, 2 (KCC 21A.14.040).]

17.20.140**Maintenance of private streets, tracts, easements and utilities required.**

As a condition of *subdivision* and *short subdivision* approval, all private streets, *tracts*, *easements*, community utilities and properties shall be maintained by the owners of the property served by them and kept in good repair at all times. In order to insure continued good repair, it must be demonstrated to the *department* at the time of plat recording that:

A. There will be a workable organization to guarantee maintenance with a committee or group to administer the organizational functions; and

B. There is a means for assessing maintenance costs equitably to property owners served by the private streets, *tracts*, *easements*, community utilities and properties. [Ord. 98-0026 §§ 1, 2 (KCC 21A.14.320).]

17.20.150**Preliminary subdivision and short subdivision approval.**

A proposed *subdivision* or *short subdivision* shall not be approved unless the decisionmaker makes written findings that:

A. Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and

B. The public use and interest will be served by the platting of such *subdivision* or *short subdivision*.

Chapter 17.25**FINAL PLAT AND FINAL SHORT PLAT**

Sections:

- 17.25.010 Purpose.
- 17.25.020 Phased development.
- 17.25.022 Final plat and final short plat engineering plan review requirements.
- 17.25.024 Subdivision and short subdivision improvements.
- 17.25.030 Final plat and final short plat review.
- 17.25.070 Alterations of final plats.
- 17.25.080 Alterations of final short plats.
- 17.25.090 Vacations of a final plat or final short plat.

17.25.010**Purpose.**

The purpose of this chapter is to specify provisions that must be satisfied prior to the final approval and recording of *final plat* and *final short plat* maps for preliminarily-approved *subdivisions* and *short subdivisions*. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.16.010).]

17.25.020**Phased development.**

Portions of an approved preliminary subdivision may be processed separately by the *department* for the purpose of recording divisions. All divisions shall be approved within the prescribed time limits for the preliminary subdivision, and all conditions of approval for each particular division must be met. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.16.020).]

17.25.022**Final plat and final short plat engineering plan review requirements.**

A. Engineering plans for streets, drainage controls and other proposed or conditioned *improvements* shall be reviewed for approval by the *development engineer* prior to the commencement of on-site clearing or construction activities.

The *applicant* shall file the following information with the *department*:

1. A complete permit application, with supporting affidavits, on forms provided by the *department*; and
2. Information requested on the application checklist provided by the *department*.

B. Approval of the engineering details of the proposed sanitary sewer and water systems by the *development engineer* and the Northshore Utility District will be required prior to the approval of the engineering plans.

C. Prior to approval of engineering plans, the *applicant* shall post *financial guarantees* consistent with the provisions of KMC Title 21, and shall pay all applicable fees set forth in KMC Title 20. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.16.040).]

17.25.024**Subdivision and short subdivision improvements.**

A. With the exception of street and replacement tree installation, prior to final recording of a plat or short plat, the required *improvements* shall be constructed or installed and receive final approval from the *development engineer*, consistent with the approved engineering plans. All required *financial guarantees* shall be posted prior to final recording. The *city manager* may allow posting of additional *financial guarantees* in the event that extraordinary circumstances prevent the construction or installation of the required *improvements*.

B. The *city manager* shall have right of entry onto any *lot, tract, easement* or parcel that is part of the *final plat* or *final short plat* to ensure compliance with the subdivision *improvements* required in subsection (A) of this section. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.08.160).]

17.25.030**Final plat and final short plat review.**

A. Following submittal of the engineering plans and installation of the required *improvements*, a *final short plat*, surveyed and signed by a *land surveyor*, shall be submitted to the *department* for review and approval by the *development engineer* prior to recording. A *final plat* shall be submitted to the *department* for review and recommendation, with final approval by the City Council. The *applicant* shall file the following information with the *department*:

1. A complete permit application, with supporting affidavits, on forms provided by the *department*; and
2. Information requested on the application checklist provided by the *department*.

B. Upon approval by the *department* or City Council, the *final plat* or short plat shall be recorded with the county records and elections division; and

C. A typewritten copy of protective deed covenants shall accompany the *final plat* or short plat, if applicable. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.16.030).]

17.25.070**Alterations of final plats.**

A. *Alterations* shall be processed in accordance with RCW 58.17.215 through 58.17.218 and shall comply with regulations in effect at the time the *alteration* application was submitted. *Alteration* applications and recording documents shall contain the signatures of the majority of those persons having an *ownership interest* in *lots, tracts, parcels* or divisions in the subject *subdivision* to be altered or any portion to be altered.

B. If the *subdivision* is subject to restrictive covenants that were filed at the time of the approval of the *subdivision*, and the application for *alteration* would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to

terminate or alter the relevant covenants to accomplish the purpose of the *alteration* of the *subdivision* or portion thereof.

C. Notice of *alterations* shall comply with the notice provisions of KMC Title 19. Mailing notification shall also include owners of each *lot* or parcel of property within the *subdivision* to be altered.

D. An application shall be processed as a Type 3 permit pursuant to Chapter 19.25 KMC and KMC 19.30.040. The application may be approved if the proposed *alteration* is consistent with the required findings of KMC 19.30.230.

E. After approval of an *alteration*, the *applicant* shall produce a revised drawing of the approved *alteration* of the *final plat*, to be processed in the same manner as set forth for *final plats* in this title. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.16.070).]

17.25.080

Alterations of final short plats.

A. *Alterations* that result in a substantial change as determined by the *department* shall be treated as a new application and shall be accomplished by following the same procedure and satisfying the same laws, rules and conditions as required for a new short plat application, as set forth in this chapter. For purposes of this section, substantial change includes, but is not limited to, the creation of additional *lots* or a significant reorientation of *lots*; changes in proposed housing types; change from a nonbuilding lot to a building lot; changes to critical area impacts; the elimination of open space; any modification to a public *dedication*; significant changes to streets; or changes to utility locations that would result in significant new impacts on neighboring properties.

B. *Alteration* of a *final short plat* may be approved by the *department* if not a substantial change.

C. *Alteration* applications and recording documents shall contain the signatures of the majority of those persons having an *ownership interest* in *lots*, *tracts*, parcels or divisions in the subject short plat to be altered or any portion to be altered.

D. If the *short subdivision* is subject to restrictive covenants that were filed at the time of the approval of the *short subdivision*, and the application for *alteration* would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the *alteration* of the *short subdivision* or portion thereof.

E. Notice of *alterations* shall comply with the notice provisions of KMC Title 19.

17.25.090

Vacations of a final plat or final short plat.

A. Plat and short plat vacations shall be processed as follows and in accordance with the provisions of RCW 58.17.212.

B. All plat and short plat vacation applications shall be referred to the hearing examiner for public hearing and consideration pursuant to KMC 19.30.050. Following the public hearing the hearing examiner shall determine if the proposed vacation is consistent with the required findings of KMC 19.30.230. If the proposal is found to serve such purposes, the hearing examiner may recommend that the city council approve the application.

C. Applications for vacations of *city* streets may be processed pursuant to this chapter only when such street vacations are proposed in conjunction with the vacation of the plat. Vacations limited to *city* streets shall be processed in accordance with Chapter 35.79 RCW. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.16.090).]

Chapter 17.30

BINDING SITE PLANS

Sections:

- 17.30.010 Purpose.
- 17.30.020 Applicability.

- 17.30.030 Requirements and limitations.
- 17.30.040 Alterations.
- 17.30.050 Vacations.
- 17.30.060 Recording.

17.30.010

Purpose.

The purposes of this chapter are:

A. To provide an alternative method for division of land for commercial zoned property, mobile home parks, trailer parks or *condominiums*; and

B. To specify administrative requirements for *binding site plans* in addition to the procedural requirements of Chapter 19.25 KMC and in accordance with applicable Washington state and *city* rules and regulations. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.20.010).]

17.30.020

Applicability.

A. Any person seeking the use of a *binding site plan* process to divide property for the purpose of sale, lease or transfer of ownership of commercial zoned property, lease of mobile homes or travel trailers or creation of *condominium* units is required to have an approved *binding site plan* prior to any property division, as provided for in Chapter 58.17, 64.32 or 64.34 RCW, and as required by this chapter. A *binding site plan* shall be based on a building permit, an as-built site plan for developed sites, a site plan review, or a *general site plan* showing the anticipated development plan for the entire site.

B. The site that is subject to the *binding site plan* shall consist of one or more contiguous *lots*.

C. The site that is subject to the *binding site plan* may be reviewed independently for developed sites, concurrently with or subsequent to a site development permit application for undeveloped land or concurrently with or subsequent to a building permit application.

D. The *binding site plan* process creates or alters lot lines and does not authorize substantial *improvements* or changes to the property or the uses thereon. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.20.020).]

17.30.030

Requirements and limitations.

A. The *binding site plan* shall ensure that the collective *lots* continue to function as one site with respect to, but not limited to, lot access, interior circulation, open space, landscaping, drainage facilities, facility maintenance and parking.

B. The *binding site plan* shall:

1. Identify the areas and locations of all streets, streets, *improvements*, utilities, open spaces, critical areas, parking areas, landscaped areas, surveyed topography for preliminary map, water bodies and drainage features and *building envelopes*;

2. Contain inscriptions or attachments setting forth such limitations and conditions for the use of the land as are established by the *city manager* or the hearing examiner; and

3. Contain provisions requiring any development or division of land to be in conformance with the approved site plan.

C. Conditions of use, maintenance and restrictions on redevelopment of shared open space, parking, access and other *improvements* shall be identified and enforced by covenants, *easements* or other similar mechanisms. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.20.030).]

17.30.040

Alterations.

A. *Alteration* of a *binding site plan* shall be accomplished by following the same process required for a new application as set forth in this chapter.

B. Changes to a building permit, site plan review or *general site plan* within a *binding site plan* area shall also require *alteration* of the *binding site plan* unless the *city manager* determines that such changes are consistent with the approved *binding site plan*. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.20.040).]

17.30.050

Vacations.

A. Vacation of a *binding site plan* shall be accomplished by following the same procedure and satisfying the same laws, rules and conditions as required for a new *binding site plan* application, as set forth in this chapter. If a portion of a *binding site plan* is vacated, the property subject to the vacated portion shall constitute one *lot* unless the property is subsequently divided by an approved *subdivision* or *short subdivision* or another *binding site plan*.

B. If a building permit, site plan review or *general site plan* is revised or expires, then the *binding site plan* shall be vacated unless the *city manager* determines that the revision or expiration is consistent with the approved *binding site plan*. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.20.050).]

17.30.060

Recording.

A. Plat certificates or owner's duplicate certificates for registered land pursuant to Chapter 65.12 RCW shall be provided to the *department* by the owner along with a copy of the last real estate transaction for all adjoining unplatted parcels.

B. Prior to recording, the approved *binding site plan* shall be surveyed and the final recording forms shall be prepared by a *land surveyor*. A final *binding site plan* shall be prepared on forms 18 inches by 24 inches in size, allowing for a two-inch border on one of the 18-inch sides, to allow for binding, and one-half-inch borders on the other three sides. The two-inch border will typically be on the top or left side depending on the configuration of the drawing.

C. The approved *binding site plan* recording documents shall include the following:

1. Except for a *binding site plan* for a *condominium*, identification of *lots* by number on a *binding site plan* containing more than one *lot*. *Tracts* shall be similarly designated and each *tract* shall be clearly identified with the ownership and purpose;
2. Signature and stamp of the *land surveyor* who prepared the *binding site plan* in accordance with Chapter 332-130 WAC and Chapter 58.09 RCW;
3. Reference to the recording number of the completed survey if the boundaries have been previously surveyed;
4. Reference to all agreements or covenants required as a condition of approval;
5. Notarized signatures of all parties having an *ownership interest* in the land being divided;
6. The *binding site plan* limitations and conditions, including irrevocable *dedications* of property, and a provision stating that any development of the site shall be in conformity with the approved *binding site plan*;
7. Approval of the *development engineer*;
8. Approval of the *city manager*;
9. Recording certificate required for signature of the *city manager*;
10. *City* file number; and
11. Approval of the King County assessor.

D. *Lots*, parcels or *tracts* created through the *binding site plan* procedure shall be legal *lots* of record. All provisions, conditions and requirements of the *binding site plan* shall be legally enforceable on the purchaser or any other person acquiring a lease or other *ownership interest* of any *lot*, parcel, or *tract* created pursuant to the *binding site plan*.

E. No person shall sell, transfer or lease of any *lot*, *tract* or parcel created pursuant to the *binding site plan* that does not conform to the requirements of the *binding site plan* or without *binding site plan* approval.

Chapter 17.40

BOUNDARY LINE ADJUSTMENTS

Sections:

- 17.40.010 Purpose.
- 17.40.020 Procedures and limitations of the boundary line adjustment process.
- 17.40.030 Final approval and recording required.
- 17.40.040 Conceptual review.

17.40.010

Purpose.

The purpose of this chapter is to provide procedures and criteria for the review and approval of minor adjustments to boundary lines of legal *lots* or *building sites* in order to rectify defects in legal descriptions, to allow the enlargement or merging of *lots* to improve or qualify as a *building site*, to achieve increased setbacks from property lines or critical areas, to correct situations wherein an established use is located across a lot line, or for other similar purposes. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.28.010).]

17.40.020

Procedures and limitations of the boundary line adjustment process.

Adjustment of boundary lines between adjacent *lots* shall be consistent with the following review procedures and limitations:

A. Applications for boundary line adjustments shall be reviewed as a Type 1 permit as provided in Chapter 19.25 KMC. The review shall include examination for consistency with KMC Title 18, Zoning; KMC Title 16, Environment; applicable Seattle/King County public health regulations and, for developed *lots*, Uniform Fire and Building Codes;

B. Any adjustment of boundary lines must be approved by the *department* prior to the transfer of property ownership between adjacent legal *lots*;

C. A boundary line adjustment proposal shall not:

1. Result in the creation of an additional *lot*;
2. Result in a *lot* that does not qualify as a *building site* pursuant to this title;
3. Relocate an entire *lot* from one *parent parcel* into another *parent parcel*;
4. Reduce the overall area in a plat or short plat devoted to open space;
5. Be inconsistent with any restrictions or conditions of approval for a recorded plat or short plat; or
6. Involve *lots* which do not have a common boundary.

D. The elimination of lines between two or more *lots* for the purpose of creating a single *lot* that meets requirements as a *building site* in all cases shall be considered a minor adjustment of boundary lines and shall not be subject to the *subdivision* and *short subdivision* provisions of this title;

E. Recognized *lots* in an approved site plan for a conditional use permit, special use permit, or site plan review shall be considered a single site and no lot lines on the site may be altered by a boundary line adjustment to transfer density or separate *lots* to another property not included in the original site plan of the subject development;

F. *Lots* that have been subject to a boundary line adjustment process that resulted in the qualification of an additional *building site* shall not be permitted to utilize the boundary line adjustment process again for five years to create an additional *building site*. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.28.020).]

17.40.030

Final approval and recording required.

A. A title insurance certificate updated not more than 30 days prior to recording of the adjustment, which includes all parcels within the adjustment, must be submitted to the *department* with boundary line adjustment final review documents. All persons having an *ownership interest* within the boundary line adjustment shall sign the final recording document in the presence of a notary public.

B. Prior to final approval, documentation authorizing the transfer of property ownership shall be placed on the original boundary line map along with the legal descriptions of those portions of land being transferred when *lots* are under separate ownership. Lot lines within *lots* under the same ownership will be adjusted upon the recording of the boundary line adjustment.

C. A final record-of-survey document must be prepared by a *land surveyor* in accordance with Chapter 332-130 WAC and Chapter 58.09 RCW. The document must contain a *land surveyor's* certificate and a recording certificate.

D. The final map page shall contain the following approval blocks:

1. The King County assessor and deputy assessor; and
2. The *city*, to be signed by the *city manager*. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.28.030).]

17.40.040

Conceptual review.

Prior to proceeding through the boundary line adjustment process, an *applicant* may request an optional preapplication meeting. At that time the *department* will perform a conceptual review based upon the information brought in by the *applicant*. [Ord. 02-0149 §§ 1, 2; Ord. 98-0019 §§ 1, 2 (KCC 19A.28.040).]

Title 18

ZONING

Chapters:

- 18.05 Adoption**
- 18.10 Authority, Purpose, Interpretation and Administration**
- 18.15 Zones, Maps and Designations**
- 18.20 Technical Terms and Land Use Definitions**
- 18.21 Residential Zones**
- 18.22 Neighborhood Business Zone**
- 18.23 Community Business Zone**
- 18.24 Downtown Residential Zone**
- 18.25 Downtown Commercial Zone**
- 18.26 Regional Business Zone**
- 18.27 Public and Semi-Public Zone**
- 18.28 Parks Zone**
- 18.28A Golf Course Zone**
- 18.30 Development Standards – General**
- 18.35 Development Standards – Landscaping**
- 18.40 Development Standards – Parking and Circulation**
- 18.42 Development Standards – Signs**
- 18.45 Development Standards – Adequacy of Public Facilities and Services**
- 18.47 Property-Specific Development Standards/Special District Overlays**
- 18.50 Development Standards – Design Requirements for Specific Uses**
- 18.52 Downtown Design Standards**
- 18.55 Critical Areas**
- 18.57 Tree Management and Protection**
- 18.60 Communication Facilities**
- 18.70 Animals**
- 18.73 Accessory Dwelling Units, Home Occupation, Home Industry**
- 18.77 Affordable Housing**
- 18.80 Residential Density Incentives**
- 18.100 General Provisions – Nonconformance, Existing Legal Uses, and Temporary Uses**
- 18.105 Site Plan Review**
- 18.115 Variance, Conditional Use, Special Use, and Zone Reclassification Permits and Modifications**
- 18.120 Master Plans**
- 18.125 Enforcement**

Chapter 18.05**ADOPTION**

Sections:

- 18.05.010 Zoning code adopted.
 18.05.040 Drawings.

18.05.010**Zoning code adopted.**

Under the provisions of Article XI, Section 11 of the Washington State Constitution, this zoning code is adopted and declared to be the zoning code for the *city* until amended, repealed or superseded. This code also is hereby enacted to be consistent with and implement the comprehensive plan in accordance with Chapter 36.70A RCW. [Ord. 98-0026 §§ 1, 2 (KCC 21A.01.020).]

18.05.040**Drawings.**

The *department* is hereby authorized after the date of the adoption of the ordinance codified in this chapter to incorporate drawings as necessary for the purpose of illustrating concepts and regulatory standards contained in this title; provided, that the adopted provisions of the code shall control over such drawings. [Ord. 98-0026 §§ 1, 2 (KCC 21A.01.090).]

Chapter 18.10**AUTHORITY, PURPOSE, INTERPRETATION AND ADMINISTRATION**

Sections:

- 18.10.010 Title.
 18.10.030 Purpose.
 18.10.040 Conformity with this title required.
 18.10.050 Minimum requirements.
 18.10.055 City Manager authority.
 18.10.060 Interpretation – General.
 18.10.070 Written interpretation of this code.
 18.10.075 Interpretation of unclassified uses.
 18.10.080 Interpretation – Zoning maps.
 18.10.085 Classification of right-of-way.

18.10.010**Title.**

This title shall be known as the zoning code, hereinafter referred to as “this title”. [Ord. 98-0026 §§ 1, 2 (KCC 21A.02.010).]

18.10.030**Purpose.**

The general purposes of this title are:

- A. To encourage land use decisionmaking in accordance with the public interest and applicable laws of the state of Washington;
- B. To protect the general public health, safety, and welfare;
- C. To implement the comprehensive plan’s policies and objectives through land use regulations;
- D. To provide for the economic, social, and aesthetic advantages of orderly *development* through harmonious groupings of compatible and complementary land uses and the application of appropriate development standards;

- E. To provide for adequate public facilities and services in conjunction with *development*; and
- F. To promote general public safety by regulating *development* of lands containing physical hazards and to minimize the adverse environmental impacts of *development*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.02.030).]

18.10.040

Conformity with this title required.

- A. No *use* or *structure* shall be established, substituted, expanded, constructed, altered, moved, maintained, or otherwise changed except in conformance with this title.
- B. Creation of or changes to lot lines shall conform with the use provisions, dimensional and other standards, and procedures of this title and KMC Title 17, Land Division.
- C. All land uses and *development* authorized by this title shall comply with all other regulations and/or requirements of this title as well as any other applicable local, state or federal law. Where a difference exists between this title and other *city* regulations, the more restrictive requirements shall apply.
- D. Where more than one part of this title applies to the same aspect of a proposed *use* or *development*, the more restrictive requirement shall apply.

18.10.050

Minimum requirements.

In interpretation and application, the requirements set forth in this title shall be considered the minimum requirements necessary to accomplish the purposes of this title. [Ord. 98-0026 §§ 1, 2 (KCC 21A.02.050).]

18.10.055

City Manager authority.

The City Manager shall have the authority and discretion to administer the provisions of this title, to make determinations with regard to the applicability of the regulations, to interpret unclear provisions, to require additional information to determine the level of detail and appropriate methodologies for required analysis, to prepare application and informational materials as required, to promulgate procedures and rules for unique circumstances not anticipated within the standards and procedures contained within this title, and to enforce requirements.

18.10.060

Interpretation – General.

- A. In case of inconsistency or conflict, regulations, conditions or procedural requirements that are specific to an individual land use shall supersede regulations, conditions or procedural requirements of general application.
- B. A land use includes the necessary *structures* to support the *use* unless specifically prohibited or the context clearly indicates otherwise.
- C. In case of any ambiguity, difference of meaning, or implication between the text and any heading, caption, or illustration, the text and the permitted use information in Chapters 18.21 through 18.28A KMC shall control. All applicable requirements shall govern a *use* whether or not they are cross-referenced in a text section.
- D. Unless the context clearly indicates otherwise, words in the present tense shall include past and future tense, and words in the singular shall include the plural, or vice versa. Except for words and terms defined in this code, all words and terms used in this code shall have their customary meanings. [Ord. 98-0026 §§ 1, 2 (KCC 21A.02.060).]
- E. Except for other agencies with authority to implement specific provisions of this code, the *department* may issue interpretations of this code. [Ord. 98-0026 §§ 1, 2 (KCC 21A.02.090).]
- F. An interpretation of this code will be enforced as if it is part of this code.

18.10.070**Written interpretation of this code.**

A. The *city manager* may, acting on his/her own initiative or in response to an inquiry, issue written interpretations of any of the provisions of this code. The *city manager* shall base his/her interpretations on:

1. The defined or common meaning of the words of the provision; and
2. The general purpose of the provision as expressed in the provision; and
3. The logical or likely meaning of the provision viewed in relation to the comprehensive plan.

B. Written interpretations shall include references to affected code sections.

C. All written interpretations of this code, filed sequentially, shall be available for public inspection and copying in the *department* during regular business hours.

D. A written interpretation of this code may be appealed to the *hearing examiner*, as provided for in KMC Chapter 19.30.

18.10.075**Interpretation of unclassified uses.**

A. Upon inquiry by an *applicant*, an administrative interpretation shall be made by the *city manager* to determine if a proposed *use* not specifically classified is allowed utilizing the criteria below. Should interpretation be made that a proposed, *unclassified use* not be allowed in a specific zoning district, the *city manager* shall indicate with which zone, if any, the *use* is consistent. If the *city manager's* interpretation indicates that an *unclassified use* is not consistent with the permitted, conditional or *accessory uses* in any district, or if the *applicant* does not concur with the permit type applied to a *use*, a Type 2 appeal may be made pursuant to Chapter 19.30 KMC.

1. Criteria for *Unclassified Uses*. To determine whether an *unclassified use* is permitted, conditionally permitted or accessory, the *city manager* shall determine the *use* is:

- a. In keeping with the purpose and intent of the zone, and consistent with the Kenmore comprehensive plan policies;
- b. Similar in nature to, and no more intense than, a specifically listed permitted, conditional or *accessory use*;
- c. Similar to the physical characteristics, supporting *structures*, scale, traffic, hours of operation, and other features of specifically listed permitted, conditional or *accessory uses*; and
- d. If determined to be permissible as an *accessory use*, the *accessory use* shall be incidental, necessary and commonly found with the permitted or conditionally permitted use and is consistent with the definition of *accessory uses* or *structures* in Chapter 18.20 KMC. [Ord. 03-0175 § 2.]

18.10.080**Interpretation – Zoning maps.**

Where uncertainties exist as to the location of any zone boundaries, the following rules of interpretation, listed in priority order, shall apply:

A. Where boundaries are indicated as paralleling the approximate centerline of the street right-of-way, the zone shall extend to each adjacent boundary of the right-of-way. Non-*street-related uses* by adjacent property owners, if allowed in the right-of-way, shall meet the same zoning requirements regulating the property owners' *lot*;

B. Where boundaries are indicated as approximately following lot lines, the actual lot lines shall be considered the boundaries;

C. Where boundaries are indicated as following lines of ordinary high water, or government meander line, the lines shall be considered to be the actual boundaries. If these lines should change, the boundaries shall be considered to move with them; and

D. If none of the rules of interpretation described in subsections (A) through (C) of this section apply, then the zoning boundary shall be determined by map scaling. [Ord. 98-0026 §§ 1, 2 (KCC 21A.02.080).]

18.10.085**Classification of right-of-way.**

A. Except when such areas are specifically designated on the zoning map as being classified in one of the zones provided in this title, land contained in rights-of-way for *streets* or *alleys* shall be considered unclassified.

B. Within *street* or *alley* rights-of-way, *uses* shall be limited to street purposes as defined by law.

C. Where such right-of-way is vacated, the vacated area shall have the zone classification of the adjoining property with which it is first merged. [Ord. 98-0026 §§ 1, 2 (KCC 21A.02.110).]

Chapter 18.15**ZONES, MAPS AND DESIGNATIONS**

Sections:

- 18.15.010 Zones and map designations established.
- 18.15.020 Zone and map designation purpose.
- 18.15.040 Residential zones.
- 18.15.045 Neighborhood business zone.
- 18.15.050 Community business zone.
- 18.15.055 Downtown residential zone.
- 18.15.065 Downtown commercial zone.
- 18.15.070 Regional business zone.
- 18.15.080 Public and semi-public zone.
- 18.15.090 Parks zone.
- 18.15.100 Golf course zone.
- 18.15.110 Map designation – Property-specific development or P-suffix standards.
- 18.15.120 Map designation – Special district overlay.
- 18.15.150 Zoning maps and boundaries.

18.15.010**Zones and map designations established.**

In order to accomplish the purposes of this title, the following zoning designations and zoning map symbols are established:

ZONING DESIGNATIONS	MAP SYMBOL
Residential	R (base density in dwellings per acre)
Neighborhood Business	NB
Community Business	CB
Downtown Residential	DR
Downtown Commercial	DC
Regional Business	RB
Public and Semi-Public	PSP
Parks	P

ZONING DESIGNATIONS	MAP SYMBOL
Golf Course	GC
Property-Specific Development Standards	P-suffix
Special District Overlay	SO

[Ord. 08-0293 § 2; Ord. 07-0267 § 9; Ord. 06-0254 § 2; Ord. 03-0175 § 3; Ord. 98-0026 §§ 1, 2 (KCC 21A.04.010).]

18.15.020

Zone and map designation purpose.

The purpose statements for each zone and map designation set forth in the following sections shall be used to guide the application of the zones and designations to all lands in Kenmore. The purpose statements also shall guide interpretation and application of land use regulations within the zones and designations, and any changes to the range of *permitted uses* within each zone through amendments to this title. [Ord. 98-0026 §§ 1, 2 (KCC 21A.04.020).]

18.15.040

Residential zones.

A. The purpose of the residential zones (R) is to implement comprehensive plan goals and policies for housing quality, diversity and affordability, and to efficiently use residential land, public services and energy. These purposes are accomplished by:

1. Providing, in the R-1 through R-6 zones, for a mix of predominantly *single detached dwelling units*, with a variety of densities and sizes in locations appropriate for residential use;
2. Providing, in the R-12 through R-48 zones, for a mix of predominantly *apartment* and *townhouse dwelling units*, with a variety of densities and sizes in locations appropriate for residential use;
3. Allowing only those accessory and complementary nonresidential *uses* that are compatible with residential communities; and
4. Establishing density designations to facilitate advanced area-wide planning for public facilities and services, and to protect environmentally critical sites from overdevelopment.

B. Use of this zone is appropriate as follows:

1. The R-1 zone on or adjacent to lands with area-wide environmental constraints where *development* is required to cluster away from *critical areas*;
2. The R-4 through R-6 zones on lands that are predominantly environmentally unconstrained and are served at the time of *development*, by adequate public sewers, water supply, *streets* and other needed public facilities and services; and
3. The R-12 through R-48 zones next to commercial centers, in areas that are served at the time of *development* by adequate public sewers, water supply, *streets* and other needed public facilities and services. [Ord. 98-0026 §§ 1, 2 (KCC 21A.04.080).]

18.15.045

Neighborhood business zone.

A. The purpose of the neighborhood business zone (NB) is to provide convenient daily retail and personal services for a limited service area and to minimize impacts of commercial activities on nearby properties, and to provide for limited residential *development*. These purposes are accomplished by:

1. Limiting nonresidential *uses* to those retail or personal services which can serve the everyday needs of a surrounding urban residential area;

2. Allowing for *mixed use* (housing and retail/service) *developments* and for *townhouse developments* as a sole *use* on properties; and

3. Excluding industrial and community/regional business-scaled *uses*.

B. Use of this zone is appropriate in neighborhood business centers on *sites* which are served at the time of *development* by adequate public sewers, water supply, *streets* and other needed public facilities and services. [Ord. 98-0026 §§ 1, 2 (KCC 21A.04.090).]

18.15.050

Community business zone.

A. The purpose of the community business zone (CB) is to provide convenience and *comparison retail* and personal services for local service areas which exceed the daily convenience needs of adjacent neighborhoods but which cannot be served conveniently by larger activity centers, and to provide retail and personal services in locations that are not appropriate for extensive *outdoor storage* or auto-related and industrial *uses*. These purposes are accomplished by:

1. Providing for limited small-scale offices as well as a wider range of the retail, professional, governmental and personal services than are found in neighborhood business areas;

2. Allowing for *mixed use* (housing and retail/service) *developments*; and

3. Excluding commercial *uses* with extensive *outdoor storage* or auto-related and industrial *uses*.

B. Use of this zone is appropriate in areas that are designated by the comprehensive plan and that are served at the time of *development* by adequate public sewers, water supply, *streets* and other needed public facilities and services. [Ord. 98-0026 §§ 1, 2 (KCC 21A.04.100).]

18.15.055

Downtown residential zone.

The downtown residential zone provides higher density residential *development* in support of the downtown commercial zone. Limited retail and office *uses* are also allowed as part of *mixed use developments*. The zone represents an opportunity to provide a range of housing types in the community with attention to appearance and scale. [Ord. 03-0175 § 4.]

18.15.065

Downtown commercial zone.

A. The downtown commercial zone features a mix of *private* and public *uses* designed to create a small-town feel, and pedestrian-friendly environment. Public places, sidewalks, extensive *landscaping*, transit orientation, shared or structured parking, protection of *critical areas*, and high quality design and signage are key features. *Permitted uses* emphasize mixed or multiple use *developments*, and include high-density housing, civic and governmental offices, small-scale commercial and retail, and locally oriented professional and personal services.

B. *Uses* not compatible with the downtown commercial zone intent such as those which require vehicle or materials storage, service bays, wide curb cuts, expanses of exterior product display or storage, or produce little customer or visitor activity are not permitted. Park-and-ride/*transit centers* are promoted along SR-522, particularly in the northwest quadrant of the 68th Avenue NE/SR-522 intersection. [Ord. 03-0175 § 5.]

18.15.070

Regional business zone.

A. The purpose of the regional business zone (RB) is to provide for the broadest mix of *comparison retail*, wholesale, service and *recreational/cultural land uses* with compatible storage and fabrication *uses*, serving regional market areas and offering significant employment opportunities. These purposes are accomplished by:

1. Encouraging compact *development* that is supportive of transit and pedestrian travel, through higher nonresidential building heights and *floor area ratios* than those found in community centers;

2. Allowing for outdoor sales and storage, regional shopping areas and limited fabrication *uses*; and

3. Concentrating large scale commercial and office *uses* to facilitate the efficient provision of public facilities and services.

B. Use of this zone is appropriate in areas that are designated by the comprehensive plan that are served at the time of *development* by adequate public sewers, water supply, *streets* and other needed public facilities and services. [Ord. 98-0026 §§ 1, 2 (KCC 21A.04.110).]

18.15.080

Public and semi-public zone.

The public and semi-public zone (PSP) is applied to properties currently owned or operated by a public entity or *private* institution. The purpose of the public and semi-public zone is to recognize that public and semi-public facilities and institutions provide necessary services to the community and have their own unique set of circumstances. The public and semi-public zone is applied to lands designated as public and private facilities on the comprehensive plan land use map.

18.15.090

Parks zone.

The parks zone (P) provides for *parks*, recreational, *open space*, and resource *uses* within publicly owned lands, and establishes standards that allow for such *uses* to continue or be established while ensuring compatibility with surrounding *uses*. The parks zone is applied to lands used for public *parks*, recreation, and *open space* purposes and designated as public and private facilities on the comprehensive plan land use map. [Ord. 06-0254 § 3.]

18.15.100

Golf course zone.

The golf course (GC) provides for golf course activities and the protection and preservation of *open space* qualities of lands that are developed for golf course *uses*. The golf course zone is applied to lands used for golf course related purposes and designated as public and private facilities on the comprehensive plan land use map.

18.15.110

Map designation – Property-specific development or P-suffix standards.

The purpose of the property-specific development standards or P-suffix designation is to indicate that conditions beyond the minimum requirements of this title have been applied to *development* on the property, including but not limited to increased development standards, limits on *permitted uses* or special conditions of approval. Property-specific development standards are maintained by the *department* and are available for public inspection and copying during regular business hours. [Ord. 98-0026 §§ 1, 2 (KCC 21A.04.150).]

18.15.120

Map designation – Special district overlay.

The purpose of the special district overlay or SO designation is to carry out comprehensive plan and subarea or neighborhood plan policies that identify special opportunities for achieving public benefits by allowing or requiring alternative *uses* and development standards that differ from the general provisions of this title. Special district overlays are generally applied to a group of individual properties or entire subarea or neighborhood planning areas. Special district overlay development standards are maintained by the *department* and are available for public inspection and copying during regular business hours.

18.15.150

Zoning maps and boundaries.

A. The location and boundaries of the zones defined by this chapter shall be shown and delineated on zoning maps adopted by ordinance.

B. Changes in the boundaries of the zones shall be made by ordinance adopting or amending a zoning map.

C. The zoning map labeled “Official Zoning Map of the City of Kenmore”, dated May 2011, and as subsequently amended is hereby adopted as the official zoning map and shall be kept on file by the *city* and will be on display for public review at Kenmore City Hall. [Ord. 98-0026 §§ 1, 2, 3 (KCC 21A.04.190).]

Chapter 18.20

TECHNICAL TERMS AND LAND USE DEFINITIONS

Sections:

18.20.010	Scope of chapter.
18.20.020	Abandoned vehicle.
18.20.030	Accessory living quarters.
18.20.035	Accessory use.
18.20.040	Accessory use, commercial/industrial.
18.20.045	Accessory use, parks.
18.20.050	Accessory use, residential.
18.20.060	Accessory use, resource.
18.20.090	Adult entertainment business.
18.20.095	Adult family home.
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18.20.305	Boat launch.
18.20.310	Book, stationery, video and art supply store.
18.20.320	Broadleaf tree.
18.20.330	Buffer.
18.20.340	Building.
18.20.350	Building envelope.

18.20.360	Building facade.
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18.20.390	Bulk retail.
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18.20.410	Capacity, school.
18.20.420	Capital facilities plan, school district.
18.20.422	Car wash.
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18.20.450	Channel relocation and stream meander areas.
18.20.460	Church, synagogue, mosque, temple.
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18.20.470	Classrooms, school.
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18.20.1960	Park.
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18.20.2040	Permanent school facilities.
18.20.2050	Personal medical supply store.
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18.20.2120	Private stormwater management facility.
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18.20.2135	Pro shop.
18.20.2140	Public agency.
18.20.2150	Public agency animal control facility.
18.20.2160	Public agency archive.
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18.20.2420	School bus base.
18.20.2430	School district.
18.20.2440	School district support facility.
18.20.2450	Schools, elementary, and middle/junior high.
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18.20.2530	Setback.

18.20.2540	Shelters for temporary placement.
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18.20.2560	Sign.
18.20.2570	Sign, awning.
18.20.2580	Sign, changing message center.
18.20.2590	Sign, community bulletin board.
18.20.2600	Sign, directional.
18.20.2610	Sign, freestanding.
18.20.2620	Sign, fuel price.
18.20.2630	Sign, incidental.
18.20.2640	Sign, indirectly illuminated.
18.20.2650	Sign, monument.
18.20.2660	Sign, off-premises directional.
18.20.2670	Sign, on-premises.
18.20.2680	Sign, permanent residential development identification.
18.20.2690	Sign, portable.
18.20.2700	Sign, projecting.
18.20.2710	Sign, time and temperature.
18.20.2720	Sign, wall.
18.20.2730	Significant tree.
18.20.2740	Site.
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18.20.2784	Social services.
18.20.2790	Soil recycling facility.
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18.20.2820	Specialized instruction school.
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18.20.2890	Stream functions.
18.20.2900	Stream.
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18.20.2920	Street frontage.
18.20.2925	Street tree.
18.20.2930	Structure.
18.20.2945	Subdrainage basin or sub-basin.
18.20.2960	Substantial improvement.
18.20.2965	Taxi stand.
18.20.2970	Theater.
18.20.2980	Theatrical production services.
18.20.3000	Trails.
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18.20.3040	Transmission equipment.

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- 18.20.3065 Transmission support structure, alternative.
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- 18.20.3130 Vector waste.
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- 18.20.3150 Variance.
- 18.20.3155 Variety store.
- 18.20.3160 Vegetation.
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- 18.20.3190 Warehousing and wholesale trade.
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- 18.20.3227 Weather protection.
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- 18.20.3250 Wetland, forested.
- 18.20.3260 Wetland functions.
- 18.20.3280 Wetlands.
- 18.20.3300 Wildlife shelter.
- 18.20.3305 Wind-firm.
- 18.20.3307 Wireless services.
- 18.20.3310 Work release facility.
- 18.20.3320 Wrecked, dismantled or inoperative vehicle.
- 18.20.3330 Yard or organic waste processing.
- 18.20.3340 Zero-lot-line development.

18.20.010

Scope of chapter.

This chapter contains definitions of technical and procedural terms used throughout this title. Defined terms are shown in italics in the text of the title.

18.20.020

Abandoned vehicle.

“Abandoned vehicle” means any vehicle left upon the property of another without the consent of the owner of such property for a period of 24 hours or longer, except that a vehicle shall not be considered abandoned if its owner or operator is unable to remove it from the place where it is located and so notifies law enforcement officials and requests assistance. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.007).]

18.20.030**Accessory living quarters.**

“Accessory living quarters” means living quarters in an accessory *building* for the use of the occupant or persons employed on the premises, or for temporary use of guests of the occupant. Such quarters have no *kitchen* and are not otherwise used as a separate *dwelling unit*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.010).]

18.20.035**Accessory use.**

“Accessory use” means a *use* typically subordinate in size to the principal *use*; that would not contribute significantly to traffic generation, noise, or nuisance; and that supports the primary *use* operation without displacing it. Accessory uses are typically located upon the same *lot* occupied by a principal *use*. [Ord. 03-0175 § 6.]

18.20.040**Accessory use, commercial/industrial.**

“Commercial/industrial accessory use” means:

A. A *use* that is subordinate and incidental to a commercial or industrial *use*; including, but not limited to the following *uses*:

1. Administrative offices;
2. Employee exercise facilities;
3. Employee food service facilities;
4. Incidental storage of raw materials and finished products sold or manufactured on-site;
5. Business owner or caretaker residence;
6. *Cogeneration* facilities; and
7. Ground maintenance facilities.

B. Some accessory uses within the scope of this section may be defined separately to enable the code to apply different conditions of approval. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.015).]

18.20.045**Accessory use, parks.**

“Parks accessory use” means a *use* or activity which is subordinate and incidental to a *park* including, but not limited to, the following *uses*:

- A. Environmental education, arts, dance, music, and other community-based and limited-term instruction.
- B. Recreational and social activities, such as hiking, biking, boating and other similar recreational activities.
- C. Meetings of nonprofit, social, community, and/or volunteer organizations. [Ord. 08-0293 § 2.]

18.20.050**Accessory use, residential.**

“Residential accessory use” means:

A. A *use, structure*, or activity which is subordinate and incidental to a residence including, but not limited to the following *uses*:

1. *Accessory living quarters* and dwellings;
2. Fallout/bomb shelters;
3. Keeping *household pets*;
4. On-site rental office;
5. Pools, *private docks*, piers;
6. *Antennas* for *private* telecommunication services;
7. Storage of yard maintenance equipment; or
8. Storage of *private* vehicles, e.g., motor vehicles, boats, trailers or planes;
9. Greenhouses.

B. Some accessory uses within the scope of this section may be defined separately to enable the code to apply different conditions of approval. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.020).]

18.20.060

Accessory use, resource.

“Resource accessory use” means:

A. A *use, structure*, or part of a *structure*, which is customarily subordinate and incidental to a resource *use* including, but not limited to the following *uses*:

1. Housing of agricultural workers; or
2. Storage of agricultural products or equipment used on-site.

B. Some accessory uses within the scope of this section may be defined separately to enable the code to apply different conditions of approval. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.025).]

18.20.090

Adult entertainment business.

“Adult entertainment business” means a sexually oriented business engaging in adult entertainment, such as an adult cabaret, adult retail business or an adult panoram, as those terms are defined in KMC Title 5.

18.20.095

Adult family home.

“Adult family home” means a residential home in which a person or persons provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services, or as otherwise defined in Chapter 70.128 RCW.

18.20.100

Agricultural product sales.

“Agricultural product sales” means the retail sale of items resulting from the practice of agriculture, including crops such as fruits, vegetables, grains, seed, feed, and plants, or animal products such as eggs, milk, and meat. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.040).]

18.20.120

Aircraft, ship and boat building.

“Aircraft, ship and boat building” means the fabrication and/or assembling of aircraft, ships or boats.

18.20.130

Airport/heliport.

“Airport/heliport” means any runway, landing area or other facility, excluding facilities for the primary use of the individual property owner which are classified as *helistops*, designed or used by public carriers or *private* aircraft for the landing and taking off of aircraft, including the following associated facilities:

- A. Taxiways;
- B. Aircraft storage and tie-down areas;
- C. Hangars;
- D. Servicing; and
- E. Passenger and air freight terminals. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.050).]

18.20.140

Alley.

“Alley” means an improved thoroughfare or right-of-way, whether public or *private*, usually narrower than a *street*, that provides vehicular access to an interior boundary of one or more *lots*, and is not designed for general traffic circulation. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.055).]

18.20.145

Alteration.

“Alteration” means any human-induced change in an existing condition of a *critical area* or its *buffer*. Alterations include, but are not limited to, *grading*, filling, channelizing, dredging, *clearing (vegetation)*,

construction, compaction, excavation or any other activity that changes the character of the *critical area*. [Ord. 06-0244 § 16.]

18.20.155

Amusement and recreation services.

“Amusement and recreation services” includes ticket agencies, travel arrangement and reservation services, scenic and sightseeing transportation services, performing arts companies, sports instruction, nonathletic recreational instruction, and sports equipment rental.

18.20.160

Amusement arcade.

“Amusement arcade” means a *building* or part of a *building* in which five or more pinball machines, video games, or other such player-operator amusement devices (excluding jukeboxes or gambling-related machines) are operated. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.060).]

18.20.165

Anadromous fish.

“Anadromous fish” means fish that spawn and rear in freshwater and mature in the marine environment. While Pacific salmon die after their first spawning, adult char (bull trout) can live for many years, moving in and out of saltwater and spawning each year. The life history of Pacific salmon and char contains critical periods of time when these fish are more susceptible to environmental and physical damage than at other times. The life history of salmon, for example, contains the following stages: upstream migration of adults, spawning, intergravel incubation, rearing, smoltification (the time period needed for juveniles to adjust their body functions to live in the marine environment), downstream migration, and ocean rearing to adults. [Ord. 06-0244 § 17.]

18.20.170

Animal, small.

“Small animal” means any animal other than *livestock* or animals considered to be predatory or wild which are kept outside a *dwelling unit* all or part of the time. Animals considered predatory or wild shall be considered small animals when they are taken into captivity for the purposes of breeding, domestication, training, or exhibition. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.065).]

18.20.180

Antenna.

“Antenna” means any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio frequency signals. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.067).]

18.20.190

Applicant.

“Applicant” means a person who files an application for a permit under this chapter and who is either the owner of the land on which that proposed activity would be located, a contract purchaser, or the authorized agent of such a person. [Ord. 06-0244 § 1; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.070).]

18.20.195

Arbor

“Arbor” means a shelter of vines or branches or of latticework covered with climbing shrubs or vines.

18.20.200

Arcade.

“Arcade” means a series of arches supported by columns, piers, or pillars, often attached to a wall to form a roofed passageway or gallery.

18.20.205**Architectural elements.**

“Architectural elements” means building elements which add detail and finely scaled features to a *building facade*, such as belt courses, braces, brackets, brick coursing, columns, corbelled brick, cornices, frame elements, window openings, piers, plinths, and sills.

18.20.207**Articulation.**

“Articulation” means shifts in wall planes such as stepbacks, reveals, overhangs, and architectural elements and details which are used to create variations in a *building facade*.

18.20.210**Artist studio.**

“Artist studio” means an establishment providing a place solely for the practice or rehearsal of various performing or creative arts; including, but not limited to, acting, dancing, singing, drawing, painting and sculpting. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.073).]

18.20.212**Arts and crafts schools/studios.**

“Arts and crafts schools/studios” means schools and studios for education in various arts and crafts, including, but not limited to, photography, dance, music, and language skills. [Ord. 03-0175 § 6.]

18.20.216**Assisted living.**

“Assisted living” means an establishment which provides living quarters and *domiciliary care* to individuals who are unable to live independently due to infirmity of age, physical or mental handicap, but who do not need the skilled nursing care of a convalescent or nursing home. These facilities may consist of individual dwelling units of a barrier-free design, with separate bathroom facilities, a full *kitchen* or no *kitchen*. The facility may provide a minimal amount of supportive health care monitoring, such as assistance with medication. In addition, these facilities may have a communal dining area, recreation facilities (library, lounge, game room), laundry facilities and open space. Assisted living does not include adult family homes as defined in Chapter 70.128 RCW. [Ord. 03-0175 § 6.]

18.20.220**Auction house.**

“Auction house” means an establishment where the property of others is sold by a broker or auctioneer to persons who attend scheduled sales periods or events. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.075).]

18.20.230**Base flood.**

“Base flood” means a flood having a one percent chance of being equaled or exceeded in any given year, often referred to as the “100-year flood.” [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.080).]

18.20.240**Base flood elevation.**

“Base flood elevation” means the water surface elevation of the *base flood* in relation to the National Geodetic Vertical Datum of 1929. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.085).]

18.20.245**Basement.**

“Basement” means any area of the *building* having its floor below ground level on all sides. [Ord. 06-0244 § 18.]

18.20.250**Bed and breakfast guesthouse.**

“Bed and breakfast guesthouse” means a *dwelling unit* or accessory *building* within which bedrooms are available for paying guests. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.090).]

18.20.260**Beehive.**

“Beehive” means a *structure* designed to contain one colony of honey bees (*apis mellifera*). [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.095).]

18.20.270**Berm.**

“Berm” means a constructed area of compacted earth. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.097).]

18.20.272**Best available science.**

“Best available science” means current scientific information derived from a valid scientific process, including that used in the process to designate, protect, or restore *critical areas* as defined by WAC 365-195-900 through 365-195-925. [Ord. 06-0244 § 19.]

18.20.274**Best management practices (BMPs).**

“Best management practices” means conservation practices or systems of practices and management measures that:

- A. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, and sediment;
- B. Minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of *wetlands*;
- C. Protect *trees* and *vegetation* designated to be retained during and following *site* construction; and
- D. Provide standards for proper use of chemical herbicides within *critical areas*.

The *city* shall monitor the application of best management practices to ensure that the standards and policies of this title are adhered to.

18.20.280**Billboard.**

“Billboard” means a *sign*, including both the supporting structural framework and attached *billboard faces*, used principally for advertising a business activity, *use*, product, or service unrelated to the primary *use* or activity of the property on which the billboard is located; excluding off-premises directional, or temporary real estate *signs*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.100).]

18.20.290**Billboard face.**

“Billboard face” means that portion of a *billboard*, exclusive of its structural support, on which changeable advertising copy is displayed, either by affixing preprinted poster panels or by painting copy on location; subclassified as follows:

- A. “Billboard face I” means a billboard face not exceeding a height of 14 feet or a width of 48 feet, and may also include temporary and irregularly shaped extensions subject to the area and duration limitations in Chapter 18.42 KMC; and
- B. “Billboard face II” means a billboard face not exceeding a height of 12 feet or a width of 24 feet. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.105).]

18.20.300**Biologist.**

“Biologist” means a person who has earned at least a Bachelor of Science degree in the biological sciences from an accredited college or university or who has equivalent educational training and experience. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.110).]

18.20.302**Blank walls.**

“Blank walls” means any *ground floor* wall over six feet in height and 15 feet or more in length and/or greater than 400 square feet in total area without architectural embellishments such as windows, doors, or other special wall treatment. Upper floors are not included in blank wall requirements.

18.20.305**Boat launch.**

“Boat launch” is an area where ramps continue down into bodies of water so that boats on trailers can be backed into the water and launched, or where operators of hand-carried watercraft may enter the water. [Ord. 08-0293 § 2.]

18.20.310**Book, stationery, video and art supply store.**

“Book, stationery, video and art supply store” means an establishment engaged in the retail sale of books and magazines, stationery, records, tapes and CDs, videos and DVDs, architectural and art supplies, and musical instruments. This *use* also includes DVD rental establishments.

18.20.320**Broadleaf tree.**

“Broadleaf tree” means a *tree* characterized by leaves that are broad in width and may include both *deciduous* and *evergreen* species. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.120).]

18.20.330**Buffer.**

For purposes of *critical areas* regulations, “buffer” means an area contiguous to a *critical area* that is required for the continued maintenance, functioning, and/or structural stability of the *critical area*. [Ord. 06-0244 § 2; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.122).]

18.20.340**Building.**

“Building” means any *structure* having a roof. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.125).]

18.20.350**Building envelope.**

“Building envelope” means the area of a *lot* that delineates the limits of where a *building* may be placed on the *lot*. The building envelope is determined through minimum lot size and minimum lot width requirements. [Ord. 04-0213 § 1; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.135).]

18.20.360**Building facade.**

“Building facade” means that portion of any exterior elevation of a *building* extending from the grade of the *building* to the top of the parapet wall or eaves, for the entire width of the building elevation. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.140).]

18.20.370**Building, hardware and garden materials store.**

“Building, hardware and garden materials store” means an establishment engaged in selling lumber and other building materials, feed, or lawn and garden supplies.

18.20.380**Bulk gas storage tank.**

“Bulk gas storage tank” means a tank from which illuminating, heating, or liquefied gas is distributed by piping directly to individual users. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.150).]

18.20.390**Bulk retail.**

“Bulk retail” means a singular indoor retail or wholesale user who occupies no less than 65,000 square feet of gross floor area, typically requires high parking to building area ratios, and has a regional sales market. Big-box retail/wholesale sales can include, but are not limited to, membership warehouse clubs that emphasize bulk sales, discount stores and department stores. [Ord. 03-0175 § 7; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.155).]

18.20.395**Caliper.**

“Caliper” means the American Nursery and Landscape Association (ANLA) standards for trunk measurement of nursery stock. Caliper of the trunk shall be the trunk diameter measured six inches above ground for up to and including four-inch caliper size and 12 inches above the ground for larger sizes.

18.20.400**Campground.**

“Campground” means an area of land developed for recreational use in temporary occupancy, such as tents or *recreational vehicles* without hookup facilities. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.160).]

18.20.410**Capacity, school.**

“School capacity” means the number of students a *school district’s* facilities can accommodate district-wide, based on the district’s *standard of service*, as determined by the *school district*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.165).]

18.20.420**Capital facilities plan, school district.**

“School district capital facilities plan” means a district’s facilities plan adopted by the school board consisting of:

- A. A forecast of future needs for school facilities based on the district’s enrollment projections;
- B. The long-range construction and capital improvements projects of the district;
- C. The schools under construction or expansion;
- D. The proposed locations and capacities of expanded or new school facilities;
- E. At least a six-year financing plan component, updated as necessary to maintain at least a six-year forecast period, for financing needed school facilities within projected funding levels, and identifying sources of financing for such purposes, including bond issues authorized by the voters and projected bond issues not yet authorized by the voters;
- F. Any other long-range projects planned by the district;
- G. The current *school capacity* based on the district’s adopted *standard of service*, and a plan to eliminate existing deficiencies, if any, without the use of impact fees; and
- H. An inventory showing the location and capacity of existing school facilities. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.170).]

18.20.422

Car wash.

“Car wash” means a *structure* with machine-operated or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles. [Ord. 03-0175 § 6.]

18.20.425

Categorically excluded.

For purposes of KMC Chapter 18.60, “categorically excluded” means as defined in 1.1306 and 1.1307 in the Code of Federal Regulations (C.F.R.)

18.20.430

Cattery.

“Cattery” means a place where adult cats are temporarily boarded for compensation, whether or not for training. An adult cat is of either sex, altered or unaltered, that has reached the age of six months. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.175).]

18.20.440

Cemetery, columbarium or mausoleum.

“Cemetery, columbarium or mausoleum” means land or *structures* used for interment of the dead or their remains. For purposes of the code, pet cemeteries are considered a subclassification of this *use*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.180).]

18.20.450

Channel relocation and stream meander areas.

“Channel relocation and stream meander area” means those areas subject to risk due to stream bank destabilization, rapid stream incision, stream bank *erosion*, and shifts in the location of stream channels. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.182).]

18.20.460

Church, synagogue, mosque, temple.

“Church, synagogue, mosque, temple” means a place where religious services are conducted, including *accessory uses* in the primary or accessory *buildings* such as religious education, reading rooms, assembly rooms, and residences for nuns and clergy. This definition does not include facilities for training of religious orders. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.185).]

18.20.465

City.

“City” means the city of Kenmore.

18.20.468

City manager.

“City manager” means the city of Kenmore city manager or his or her designee(s).

18.20.470

Classrooms, school.

“School classrooms” means educational facilities required to house students for a basic educational program. Specialized facilities, including but not limited to gymnasiums, cafeterias, libraries, administrative offices, and child care centers, shall not be counted as classrooms. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.190).]

18.20.480**Clearing.**

“Clearing” means the limbing, pruning, trimming, topping, cutting or removal of *vegetation* or other organic plant matter by physical, mechanical, chemical or other means. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.195).]

18.20.485**Clustered.**

“Clustered” means the grouping of *structures* on a portion of the available land, reserving a significant amount of the *site* as *open space*. Lot segregations for clustered *development* are discussed in KMC 17.20.130.

18.20.490**Cogeneration.**

“Cogeneration” means the sequential generation of energy and useful heat from the same primary source or fuel for industrial, commercial, or residential heating or cooling purposes. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.205).]

18.20.495**Commercial nursery or tree farm.**

“Commercial nursery” or “tree farm” means a licensed plant or *tree* nursery or farm in relation to those *trees* planted and growing on the premises of the licensee, which are planted and grown for sale through retail or wholesale channels in the ordinary course of the licensee’s business.

18.20.500**Communication facility, major.**

“Major communication facility” means a communication facility for transmission and reception of:

- A. UHF and VHF television signals; or
- B. FM or AM radio signals. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.210).]

18.20.510**Communication facility, minor.**

“Minor communication facility” means a communication facility for transmission and reception of:

- A. Two-way and/or citizen band (CB) radio signals;
- B. Point-to-point *microwave* signals;
- C. Cellular radio signals;
- D. Signals through FM radio translators; or
- E. Signals through FM radio boosters under 10 watts *effective radiated power* (ERP). [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.215).]

18.20.520**Community residential facility (CRF).**

“Community residential facility (CRF)” means living quarters meeting applicable federal and state standards that function as a single housekeeping unit and provide supportive services, including but not limited to counseling, rehabilitation and medical supervision, excluding drug and alcohol detoxification which is classified as health services. CRFs are further classified as follows:

- A. CRF-I means nine to 10 residents and staff;
- B. CRF-II means 11 or more residents and staff. If staffed by nonresident staff, each 24 staff hours per day equals one full-time residing staff member for purposes of subclassifying CRFs.

Provided, however, that this definition shall not apply to *secure community transition facilities* as defined in KMC 18.20.2465 or to *adult family homes* as defined in KMC 18.20.095. [Ord. 02-0145 § 2; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.220).]

18.20.530**Commuter parking lot.**

“Commuter parking lot” means vehicle parking specifically for the purpose of access to a public transit system or for users of carpools or vanpools. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.223).]

18.20.540**Compensatory storage.**

“Compensatory storage” means new, excavated storage volume equivalent to any flood storage which is eliminated by building, filling or *grading* within the *floodplain*. For the purpose of this definition, equivalent flood storage capacity is that which is replaced by equal volume between corresponding one-foot contour intervals which are hydraulically connected to the floodway through their entire depth. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.225).]

18.20.550**Conditional use permit.**

“Conditional use permit” means a permit required for *uses* due to special characteristics that may not generally be appropriate within a zoning district, but may be permitted subject to review by the reviewing official to establish conditions to protect public health, safety and welfare and ensure compatibility with nearby land *uses*. [Ord. 03-0175 § 8; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.230).]

18.20.560**Conference center.**

“Conference center” means an establishment developed primarily as a meeting facility, including only facilities for recreation, overnight lodging, and related activities provided for conference participants. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.235).]

18.20.570**Confinement area.**

“Confinement area” means any open land area in which *livestock* are kept where the forage does not meet the definition of a *grazing area*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.240).]

18.20.580**Consolidation.**

“Consolidation” means the relocation to a consolidated transmission structure of the main transmit *antennas* of two or more *FCC* broadcast licensees which prior to such relocation utilized transmission structures located within a 1,500-foot radius of the center of the consolidated transmission structure to support their main transmit *antennas*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.245).]

18.20.590**Construction and trade.**

“Construction and trade” means establishments that provide services related to construction of *buildings* and infrastructure, and other improvements to property. Such establishments include landscape and horticultural services. This definition excludes construction and trade establishments that qualify as a *professional office* by virtue of having only a business office without outside storage or fabrication. [Ord. 03-0175 § 9; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.247).]

18.20.610**Courtyard.**

“Courtyard” means a *private* open space internal to *development* which is not accessible to the public and which is enclosed on at least two sides by *structure(s)* or fencing.

18.20.612**Critical areas.**

“Critical areas” means any of the following areas or ecosystems: aquifer recharge areas, fish and wildlife habitat areas of importance, frequently flooded areas, *geologically hazardous areas*, *streams*, and *wetlands*, as defined in Chapter 36.70A RCW and this chapter. [Ord. 06-0244 § 21.]

18.20.614**Critical area tract.**

“Critical area tract” means land held in *private* ownership and retained in an undeveloped condition in perpetuity for the protection of *critical areas*. Lands within this type of dedication may include, but are not limited to, portions and combinations of forest habitats, grasslands, *geologically hazardous areas*, on-site watersheds, 100-year *floodplains*, shorelines or shorelines of statewide significance, *riparian* areas, and *wetlands*. [Ord. 06-0244 § 22.]

18.20.630**Critical facility.**

“Critical facility” means a facility necessary to protect the public health, safety and welfare and which is defined under the occupancy categories of “essential facilities”, “hazardous facilities” and “special occupancy structures” in the International Building Code. Critical facilities also include nursing homes, public roadway bridges, and sites for *hazardous substance* storage or production, not including the temporary storage of consumer products containing *hazardous substances* intended for household use or for retail sale on the *site*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.260).]

18.20.632**Critical root zone (CRZ).**

“Critical root zone” is the area where the *tree*’s essential mass of roots are located. This root zone is generally the area surrounding a *tree* at a distance which is equal to one foot for every inch of trunk *diameter at breast height* or the area of a circle with radius extending from a *tree*’s trunk to a point no less than the end of a *tree*’s longest branch, whichever is greater.

18.20.633**Crown.**

“Crown” means the area of a *tree* containing leaf or needle-bearing branches.

18.20.635**Cultural facilities.**

“Cultural facilities” means facilities which offer passive entertainment and enjoyment activities to the general public. This definition includes, but is not limited to, museums and libraries. [Ord. 03-0175 § 6.]

18.20.640**Daily care.**

“Daily care” means medical procedures, monitoring and attention that are necessarily provided at the residence of the patient by the primary provider of daily care on a 24-hour basis. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.262).]

18.20.650**Day care.**

“Day care” means an establishment for group care of nonresident adults or children.

A. Day care shall include only child day care services, adult day care centers and the following:

1. Adult day care, such as adult day health centers or social day care as defined by the Washington State Department of Social and Health Services;
2. Nursery schools for children under minimum age for education in public schools;

3. Privately conducted kindergartens or prekindergartens when not a part of a public or parochial school; and

4. Programs covering after-school care for school children.

B. Day care establishments are subclassified as follows:

1. *Family child-care home*.

2. Day care I – A maximum of 12 adults or children in any 24-hour period; and

3. Day care II – Over 12 adults or children in any 24-hour period. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.265).]

18.20.655

Debris flow.

“Debris flow” means a stream-like flow of muddy water filled with mixed sizes of sediment and rock. Debris flows are generated by sporadic heavy rains on steep slopes. [Ord. 06-0244 § 23.]

18.20.660

Deciduous.

“Deciduous” means a plant species with foliage that is shed annually. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.270).]

18.20.665

Degraded wetland buffer.

“Degraded wetland buffer” means a *buffer* area which cannot adequately protect its adjacent *wetland* due to one or more of the following existing conditions:

A. Lack of vegetative cover or presence of bare soils (resulting from disturbance, fill, debris, or trash);

B. Significant cover (over 50 percent) in *nonnative vegetation*;

C. Significant cover (over 50 percent) in invasive species or *noxious weeds*;

D. Presence of existing nonconforming *structures* or improvements. [Ord. 06-0244 § 24.]

18.20.670

Density credit, transfer of (TDC).

“Transfer of density credit (TDC)” means the ability to transfer potentially buildable *dwelling units* from an eligible *sending site* to an eligible *receiving site* as provided in this code. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.275).]

18.20.680

Department.

“Department” means the *city* department or outside agency assigned by the *city manager* to administer a portion of the *city* code. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.280).]

18.20.690

Department and variety store.

“Department and variety store” means an establishment engaged in the retail sale of a variety of lines of merchandise, such as dry goods, apparel and accessories, gifts, novelties and souvenirs, luggage and leather goods, home furnishings, and housewares.

18.20.695

Designated manufactured home.

“Designated manufactured home” means a manufactured home constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes, which meets the following conditions, as allowed under RCW 35A.21.312 and RCW 35.63.160:

A. Is comprised of at least two fully enclosed parallel sections each of not less than 12 feet wide by 36 feet long;

B. Was originally constructed with, and now has, a composition or wood shake or shingle, coated metal, or similar roof of nominal 3:12 pitch;

C. Has exterior siding similar in appearance to siding materials commonly used on conventional site-built International Residential Code single-family residences.

D. Is a “new manufactured home” as defined in RCW 35.63.160, meaning any manufactured home required to be titled under RCW Title 46, which has not been previously titled to a retail purchaser, and is not a “used mobile home” as defined in RCW 82.45.032(2);

E. Is set upon a permanent foundation, as specified by the manufacturer, and that the space from the bottom of the home to the ground be enclosed by concrete or an approved concrete product which can be either load-bearing or decorative;

F. Complies with all local design standards applicable to all other homes within the neighborhood in which the manufactured home is to be located;

G. Is thermally equivalent to the State Energy Code; and

H. This section does not override any legally recorded covenants or deed restrictions of record. [Ord. 07-0272 § 2.]

18.20.700

Destination resort.

“Destination resort” means an establishment for resource-based recreation and intended to utilize outdoor recreational opportunities, including related services, such as food, overnight lodging, equipment rentals, entertainment and other conveniences for guests of the resort. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.290).]

18.20.710

Developer.

“Developer” means the person or entity that owns or holds purchase options or other development control over property for which *development* is proposed. (Also see “*Applicant*”, KMC 18.20.190.) [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.295).]

18.20.715

Development.

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

A. Interior *building* improvements;

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

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

D. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; individual utility service connections; and individual cemetery plots in established and approved cemeteries. [Ord. 06-0244 § 25.]

18.20.730

Development agreement.

“Development agreement” means a recorded agreement between an *applicant* and the *city* which incorporates the site plans, development standards, and other features of a *development*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.305).]

18.20.735**Development permit.**

“Development permit” means any permit issued by the *city*, or other authorized agency, for construction, land use, or the alteration of land. [Ord. 06-0244 § 26.]

18.20.740**Development proposal.**

“Development proposal” means any activities requiring a permit or other approval from the *city* relative to the *use* or *development* of land. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.310).]

18.20.750**Development proposal site.**

“Development proposal site” means the legal boundaries of the parcel or parcels of land for which an *applicant* has or should have applied for authority from the *city* to carry out a *development proposal*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.315).]

18.20.752**Diameter at breast height (d.b.h.).**

“Diameter at breast height (d.b.h.)” means a *tree*’s diameter in inches at four and one-half feet above the ground. On multiple stemmed or trunked *trees*, the diameter shall be the sum of diameters of all individual stems or trunks.

18.20.755**Differential settlement.**

“Differential settlement” means nonuniform or uneven ground settlement that occurs over a relatively short distance, such as measured across the width of a residential *structure* (typically 25 feet). Differential settlement can result if a *structure* is underlain by dissimilar soils below portions of the *structure* (e.g., dense fill versus loose fill below parts of the *structure*), or by uneven ground settlement as could occur if the ground below a *structure* were to liquefy during strong earthquake shaking. [Ord. 06-0244 § 27.]

18.20.772**Dock.**

A “dock” is a platform built out from the shore into the water providing access to boats or other watercraft or for public viewing of the water. [Ord. 08-0293 § 2.]

18.20.775**Domiciliary care.**

“Domiciliary care” means:

- A. Assistance with activities of daily living provided by the licensee either directly or by contract;
- B. Assuming general responsibility for the safety and well-being of the resident; and
- C. Limited nursing services, if provided by the licensee. [Ord. 03-0175 § 6.]

18.20.780**Dormitory.**

“Dormitory” means a residential *building* that provides sleeping quarters, but not separate *dwelling units*, and may include common dining, cooking and recreation or bathing facilities. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.330).]

18.20.785**Drive-through service.**

“Drive-through service” means a business or a portion of a business where a customer is permitted or encouraged either by the design of physical facilities or by service and/or packaging procedures, to carry on business in the off-street parking or paved area accessory to the business, while seated in a motor vehicle. In

some instances, customers may need to get out of the vehicle to obtain the product or service. This definition shall include, but not be limited to, fast-food restaurants, espresso stands, and drive-in services at banks and pharmacies. This definition excludes automotive service and repair, gas stations, and *car washes*. [Ord. 03-0175 § 6.]

18.20.790**Drop box facility.**

“Drop box facility” means a facility used for receiving solid waste and recyclables from off-site sources into detachable solid waste containers, including the adjacent areas necessary for entrance and exit roads, unloading and vehicle turnaround areas. Drop box facilities normally service the general public with loose loads and may also include containers for separated recyclables. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.335).]

18.20.800**Drug store.**

“Drug store” means an establishment engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics and related supplies, and tobacco stores and stands.

18.20.805**Durable materials.**

“Durable materials” means materials capable of withstanding wear and tear with limited maintenance required, long-term use, vandal resistant, and weather resistant.

18.20.810**Dwelling unit.**

“Dwelling unit” means one or more rooms designed for occupancy by a person or *family* for living and sleeping purposes, containing *kitchen facilities* and rooms with internal accessibility, for use solely by the dwelling’s occupants. [Ord. 07-0272 § 2; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.345).]

18.20.820**Dwelling unit, accessory.**

“Accessory dwelling unit” means a separate, complete *dwelling unit* attached to or contained within the *structure* of the primary dwelling; or contained within a separate *structure* that is accessory to the primary *dwelling unit* on the premises. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.350).]

18.20.835**Dwelling, multiple-family.**

“Dwelling, multiple-family” means a one-family dwelling attached to one or more one-family dwellings by common roofs, walls, or floors. Also includes one or more dwellings attached to nonresidential *uses*. This definition does not include *accessory dwelling units*, *community residential facilities*, or nursing and personal care facilities.

A. **Apartment.** A residential *building* containing two or more *dwelling units* which are attached at one or more common roofs, walls, or floors. Typically, the unit’s habitable area is provided on a single level. Unit entrances may or may not be provided from a common corridor.

B. **Townhouse.** A one-family, ground-related dwelling attached to one or more such units in which each unit has its own exterior, ground-level access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common walls. Typically the units are multi-story.

18.20.840**Dwelling unit, single detached.**

“Single detached dwelling unit” means a detached *building* containing one *dwelling unit* or an *adult family home*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.365).]

18.20.860**Earth station.**

“Earth station” means a communication facility which transmits and/or receives signals to and from an orbiting satellite using satellite dish *antennas*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.375).]

18.20.865**Educational institutions (public or private), K–12.**

“Educational institutions (public or private), K–12” means a public or *private* school encompassing grades K – 12. [Ord. 03-0175 § 6.]

18.20.870**Effective radiated power.**

“Effective radiated power” means the product of the *antenna* power input and the numerical *antenna* power gain. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.380).]

18.20.880**Electrical substation.**

“Electrical substation” means a *site* containing equipment for the conversion of high voltage electrical power transported through transmission lines into lower voltages transported through distribution lines and suitable for individual users. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.390).]

18.20.885**Emergent wetland.**

“Emergent wetland” means a *wetland* with at least 30 percent of the surface area covered by erect, rooted, herbaceous *vegetation* extending above the water surface as the uppermost vegetative stratum. [Ord. 06-0244 § 28.]

18.20.890**Emergency.**

“Emergency” means an occurrence during which there is imminent danger to the public health, safety and welfare, or which poses an imminent risk to property, as a result of a natural or manmade catastrophe as so declared by the *city manager*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.392).]

18.20.900**Energy resource recovery facility.**

“Energy resource recovery facility” means an establishment for recovery of energy in a usable form from mass burning or refuse-derived fuel incineration, pyrolysis or any other means of using the heat of combustion of solid waste. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.395).]

18.20.910**Enhancement.**

“Enhancement” means actions taken to improve habitat or water quality function and/or wildlife use in a given area by planting native species, removing nonnative species, installing habitat *structures*, and any other measures approved by the *city*. [Ord. 06-0244 § 3; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.400).]

18.20.920**Equipment, heavy.**

“Heavy equipment” means high-capacity mechanical devices for moving earth or other materials, and mobile power units including, but not limited to:

- A. Carryalls;
- B. Graders;
- C. Loading and unloading devices;
- D. Cranes;

E. Drag lines;
 F. Trench diggers;
 G. Tractors;
 H. Augers;
 I. Bulldozers;
 J. Concrete mixers and conveyers;
 K. Harvesters;
 L. Combines; or
 M. Other major agricultural equipment and similar devices operated by mechanical power as distinguished from manpower. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.405).]

18.20.930

Erosion.

“Erosion” means the process by which soil particles are mobilized and transported by natural agents such as wind, rainsplash, frost action or surface water flow. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.410).]

18.20.940

Erosion hazard areas.

“Erosion hazard areas” means those areas identified by the United States Department of Agriculture Natural Resources Conservation Service or identified by a special study as having a “moderate to severe” or “very severe” *erosion* potential. [Ord. 06-0244 § 4; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.415).]

18.20.950

Evergreen.

“Evergreen” means a plant species with foliage that persists and remains green year round. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.420).]

18.20.965

Existing legal uses.

Where the term “existing” or “existing legal” follows a listed *use* type, then those *uses* that can document their legal conforming status prior to April 28, 2003 are considered to be *permitted uses* and given all the rights of other *permitted uses* within the district, until such time as there is a change of *use* or abandonment as set forth in KMC 18.100.085. In addition, these *uses* may be rebuilt within the same footprint and floor area should they suffer damage; provided, that no new *nonconformances* with standards are created (e.g., *setbacks*), if any. These *uses* may be remodeled without limitation on value and may be enlarged subject to current code requirements (e.g., height limits, lot coverage, density limits, *setbacks*, parking, etc.), unless otherwise specifically conditioned. [Ord. 03-0175 § 6.]

18.20.967

FAA.

“FAA” means the Federal Aviation Administration.

18.20.970

Fabric shop.

“Fabric shop” means an establishment engaged in the retail sale of sewing or needlework supplies and accessories, or awnings, banners or flags.

18.20.1000

Fairground.

“Fairground” means a *site* permanently designated and improved for holding a fair, as provided in Chapters 15.76 and 36.37 RCW, or for holding similar events, including, but not limited to:

- A. Carnivals;
- B. Circuses;

- C. Expositions;
- D. Animal shows; and
- E. Exhibitions and/or demonstrations of farm and home products with accompanying entertainment and amusements. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.445).]

18.20.1010**Family.**

“Family” means an individual; two or more persons related by blood or marriage; a group of two or more disabled residents protected under the Federal Housing Act Amendments, who are not related by blood or marriage, living together as a single housekeeping unit; a group of eight or fewer residents, who are not related by blood or marriage, living together as a single housekeeping unit; or a group living arrangement where eight or fewer residents receive supportive services such as counseling, foster care, or medical supervision at the *dwelling unit* by resident or nonresident staff. For purposes of this definition, minors living with parent shall not be counted as part of the maximum number of residents. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.450).]

18.20.1012**Family child-care home.**

“Family child-care home” means a child day care provider who regularly provides child day care and early learning services for not more than twelve (12) children in the provider’s home in the family living-quarters, or as otherwise defined in RCW43.215.010.

18.20.1015**FCC.**

“FCC” means the Federal Communications Commission.

18.20.1020**Federal Emergency Management Agency (FEMA) floodway.**

“Federal Emergency Management Agency (FEMA) floodway” means the channel of the *stream* and that portion of the adjoining *floodplain* which is necessary to contain and discharge the *base flood* flow without increasing the *base flood elevation* more than one foot. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.455).]

18.20.1040**Fence.**

“Fence” means a barrier for the purpose of enclosing space or separating *lots*, composed of:

- A. Masonry or concrete walls, excluding *retaining walls*; or
- B. Wood, metal or concrete posts connected by boards, rails, panels, wire or mesh. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.465).]

18.20.1050**Financial guarantee.**

“Financial guarantee” means a form of financial security posted to ensure timely and proper completion of improvements, compliance with this code or to warrant materials, workmanship of improvements, and design. Financial guarantees include assignments of funds, cash deposits, surety bonds, and other forms of financial security acceptable to the *city manager*.

18.20.1052**First floor facades.**

“First floor facades” means, for the purposes of determining priority design standards, the following categories of regulations when applied to the *ground floor* of *buildings*: *Ground floor* facades, *ground floor* transparency and visibility, *blank wall* and side wall, and building materials.

18.20.1055**Fish habitat.**

“Fish habitat” means habitat that is used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered by *restoration* or management and off-channel habitat. [Ord. 06-0244 § 29.]

18.20.1060**Flood fringe.**

“Flood fringe” means that portion of the *floodplain* outside of the *zero-rise floodway* which is covered by floodwaters during the *base flood*, generally associated with standing water rather than rapidly flowing water. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.470).]

18.20.1070**Flood hazard areas.**

“Flood hazard areas” means those areas in the *city* subject to inundation by the *base flood* and those areas subject to risk from *channel relocation or stream meander* including, but not limited to, *streams*, lakes, *wetlands* and closed depressions. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.475).]

18.20.1080**Flood insurance rate map (FIRM).**

“Flood insurance rate map” means the official map on which the Federal Insurance Administration has delineated some *flood hazard areas*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.480).]

18.20.1090**Flood insurance study for King County.**

“Flood insurance study for King County” means the official report provided by the Federal Insurance Administration which includes flood profiles and the *flood insurance rate map*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.485).]

18.20.1100**Flood protection elevation.**

“Flood protection elevation” means an elevation which is one foot above the *base flood elevation*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.490).]

18.20.1110**Floodplain.**

“Floodplain” means the total area subject to inundation by the *base flood*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.495).]

18.20.1120**Floodproofing.**

“Floodproofing” means adaptations which will make a *structure* that is below the *flood protection elevation* substantially impermeable to the passage of water and resistant to hydrostatic and hydrodynamic loads including the impacts of buoyancy. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.500).]

18.20.1130**Floodway, zero-rise.**

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

insurance study for King County, are considered the boundaries of the *zero-rise floodway* unless otherwise delineated by a *critical area* special study. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.505).]

18.20.1135

Floor area ratio (FAR).

“Floor area ratio (FAR)” means a measure of development intensity equal to the gross building floor area, divided by the *site area*. [Ord. 03-0175 § 6.]

18.20.1140

Florist shop.

“Florist shop” means an establishment engaged in the retail sale of flowers and plants. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.510).]

18.20.1150

Forest practice.

“Forest practice” means any activity regulated by the Washington Department of Natural Resources in WAC Title 222 or Chapter 79.06 RCW for which a forest practice permit is required, together with:

- A. Fire prevention, detection and suppression; and
- B. Slash burning or removal. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.520).]

18.20.1160

Forest product sales.

“Forest product sales” means the sale of goods produced, extracted, consumed, gathered or harvested from a forest including, but not limited to:

- A. Trees;
- B. Wood chips;
- C. Logs;
- D. Fuelwood;
- E. Cones;
- F. Christmas trees;
- G. Berries;
- H. Herbs; or
- I. Mushrooms. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.525).]

18.20.1170

Forest research.

“Forest research” means the performance of scientific studies relating to botany, hydrology, silviculture, biology and other branches of science in relation to management of forest lands.

18.20.1185

Functions and values.

“Functions and values” means the beneficial roles served by *critical areas* including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, ground water recharge and discharge, *erosion* control, wave attenuation, protection from hazards, historical and archaeological and aesthetic value protection, and recreation. These beneficial roles are not listed in order of priority. [Ord. 06-0244 § 30.]

18.20.1190

Furniture and home furnishings store.

“Furniture and home furnishings store” means an establishment engaged in the retail sale of household furniture and furnishings for the home.

18.20.1200**General business service.**

“General business service” means an establishment engaged in providing services to businesses or individuals, with no *outdoor storage* or fabrication, including banks, brokerages, insurance offices, real estate offices, and membership organizations.

18.20.1202**General personal service use.**

“General personal service use” means drycleaning and laundry services, linen suppliers, diaper services, carpet and upholstery cleaning services, portrait studios, clothing alteration and repair services, beauty and barber shops, shoe repair shops, tax return preparation services, and other miscellaneous personal services.

18.20.1203**General services land uses.**

“General services land uses” means *general personal service use*; drycleaning plants; industrial launderers; funeral home/crematory; *cemetery, columbarium or mausoleum*; *day care I*; *day care II*; veterinary clinic; automotive repair (except tire retreading); automotive service; *miscellaneous repair*; *church, mosque, temple*; *social services* (except *day care* services and residential care); *stable*; *kennel or cattery*; *theatrical production services*; *artist studios*; *interim recycling facility*; medical/dental office/outpatient clinic; nursing and personal care facilities; hospital; medical/dental lab; *miscellaneous health services*; *elementary school*; *middle/junior high school*; *secondary or high school*; *vocational school*; *specialized instruction school*; and *school district support facility*.

18.20.1205**Geologically hazardous areas.**

“Geologically hazardous areas” means areas that may not be suited to *development* consistent with public health, safety or environmental standards because of their susceptibility to *erosion*, sliding, earthquake, or other geological events as designated by WAC 365-190-080(4). Types of geologically hazardous areas include: *erosion, landslide*, seismic, and other hazards. [Ord. 06-0244 § 31.]

18.20.1210**Geologist.**

“Geologist” means a person who has earned at least a Bachelor of Science degree in the geological sciences from an accredited college or university or who has equivalent educational training and at least four years of professional experience. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.545).]

18.20.1230**Golf course facility.**

“Golf course facility” means a recreational facility, under public or *private* ownership, designed and developed for golf activities with *accessory uses* including, but not limited to:

- A. A driving range;
- B. Miniature golf;
- C. *Pro shops*;
- D. Caddyshack buildings;
- E. Swimming pools, tennis courts and other related *recreational facilities*;
- F. Restaurants;
- G. Office and meeting rooms; and
- H. Related storage facilities. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.555).]

18.20.1233**Government/business services land uses.**

“Government/business services land uses” means *public agency or utility office*; *public agency or utility yard*; *public agency archives*; court; police facility; fire facility; *utility facility*; *commuter parking lot*; *private*

stormwater management facility; vector waste receiving facility; construction and trade; individual transportation and taxi; trucking and courier service; warehousing and wholesale trade (except self-service storage); self-service storage; farm product warehousing, refrigeration and storage; log storage; transportation service; freight and cargo service; passenger transportation service; communication offices; telegraph and other communications; general business service; professional office; outdoor advertising service; miscellaneous equipment rental; automotive rental and leasing; automotive parking; professional sport teams/promoters; research, development and testing; heavy equipment and truck repair; commercial/industrial accessory uses; and helistop.

18.20.1235**Government facilities, city.**

“Government facilities, city” means facilities of any unit of *city* government. Types of facilities include municipal offices, community centers, courts of law, public works maintenance facilities, and other types of municipal facilities. [Ord. 03-0175 § 6.]

18.20.1240**Grade span.**

“Grade span” means the categories into which a district groups its grades of students; i.e., *elementary, middle or junior high school, and high school*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.560).]

18.20.1250**Grading.**

“Grading” means any excavation, filling, removing the duff layer or any combination thereof. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.565).]

18.20.1260**Grazing area.**

“Grazing area” means any open land area used to pasture *livestock* in which suitable forage is maintained over 80 percent of the area at all times of the year. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.570).]

18.20.1270**Groundcover.**

“Groundcover” means living plants designed to grow low to the ground (generally one foot or less) and intended to stabilize soils and protect against *erosion*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.575).]

18.20.1272**Ground floor.**

“Ground floor” means the level of a *building* accessible from public walkways or public sidewalks that is typically at grade level. Building levels below ground are not considered ground floors.

18.20.1273**Grove.**

“Grove” means a contiguous grouping of *trees* standing in close proximity, which form a continuous canopy and/or are mutually dependant.

18.20.1275**Hazard areas.**

“Hazard areas” means areas designated as frequently flooded areas or *geologically hazardous areas* due to potential for *erosion, landslide*, seismic activity, or other geological condition. [Ord. 06-0244 § 32.]

18.20.1280

Hazardous household substance.

“Hazardous household substance” means a substance as defined in RCW 70.105.010. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.580).]

18.20.1290

Hazardous liquid and gas transmission pipelines.

“Hazardous liquid and gas transmission pipelines” are as defined by RCW 81.88.040 and WAC 480-93-005. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.582).]

18.20.1300

Hazardous substance.

“Hazardous substance” means a substance as defined in RCW 70.105.010. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.585).]

18.20.1305

Health services, miscellaneous.

“Health services, miscellaneous” includes home health care services, kidney dialysis centers, special outpatient facilities, such as family planning centers and outpatient mental health facilities, blood and organ banks, medical photography, and childbirth preparation classes, as well as other miscellaneous ambulatory health care services.

18.20.1307

Hearing examiner.

“Hearing examiner” means the hearing examiner as established by Chapter 19.30 KMC. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.425).]

18.20.1310

Heavy equipment and truck repair.

“Heavy equipment and truck repair” means the repair and maintenance of self-powered, self-propelled or towed mechanical devices, equipment and vehicles used for commercial purposes, such as tandem axle trucks, graders, backhoes, tractor trailers, cranes, lifts, but excluding automobiles and pickup trucks under 10,000 pounds, *recreational vehicles*, boats and their trailers. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.590).]

18.20.1320

Helistop.

“Helistop” means an area on a roof or on the ground used for the takeoff and landing of helicopters for the purpose of loading or unloading passengers or cargo but not including fueling service, hangars, maintenance or overhaul facilities. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.595).]

18.20.1330

Historic resource.

“Historic resource” means a district, site, *building*, *structure* or object significant in national, state or local history, architecture, archaeology, and culture. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.597).]

18.20.1350

Hobby, toy, game shop.

“Hobby, toy, game shop” means an establishment engaged in the retail sale of toys, games, hobby and craft kits, including coin shops and stamp sales.

18.20.1360**Home industry.**

“Home industry” means a limited-scale sales, service or fabrication activity undertaken for financial gain, which occurs in a *dwelling unit* or residential accessory *building*, or in a barn or other resource accessory *building* and is subordinate to the primary use of the *site* as a residence. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.605).]

18.20.1370**Home occupation.**

“Home occupation” means a limited-scale service or fabrication activity undertaken for financial gain, which occurs in a *dwelling unit* or accessory *building* and is subordinate to the primary use of the *site* as a residence. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.610).]

18.20.1375**Hotel.**

“Hotel” means a *building* or portion thereof designed or used for transient rental for sleeping purposes. Hotel *structures* are at least two stories in height, with lodging space above the first floor. Lodging space may also be located on the first floor. Individual rooms are typically accessed from a common hallway. A central *kitchen* and dining room and accessory shops and services catering to the general public may be provided. Not included in this definition are *townhouses*, *apartments*, bed and breakfasts, or *motels*. [Ord. 03-0175 § 6.]

18.20.1380**Household pets.**

“Household pets” means small animals that are kept within a *dwelling unit*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.615).]

18.20.1381**Human-scaled elements.**

“Human-scaled elements” means the perceived size of a *building* or space relative to the human body. Human-scaled elements such as doors, windows, bays, etc., have dimensions and proportions which respond to the size of a human body.

18.20.1382**Hydraulic project approval (HPA).**

“Hydraulic project approval” means a permit issued by the Washington State Department of Fish and Wildlife for modifications to waters of the state in accordance with Chapter 75.20 RCW. [Ord. 06-0244 § 33.]

18.20.1390**Hydroelectric generation facility.**

“Hydroelectric generation facility” means an establishment for the generation of electricity using water sources. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.620).]

18.20.1400**Impervious surface.**

“Impervious surface” means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to *development*, and/or a hard surface area that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to *development*. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, areas which are paved, graveled or made of packed or oiled earthen materials or other surfaces which similarly impede the natural infiltration of surface and stormwater. Impervious surface shall not include areas of turf, landscaping, natural *vegetation*, or open uncovered flow control or water quality treatment facilities. [Ord. 06-0244 § 5; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.625).]

18.20.1420

Individual transportation and taxi.

“Individual transportation and taxi” means an establishment engaged in furnishing individual or small group transportation by motor vehicle.

18.20.1430

Infiltration rate.

“Infiltration rate” means the rate of water entry into the soil expressed in inches per hour. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.637).]

18.20.1435

In-kind.

“In-kind” means to replace *critical areas* with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity. [Ord. 06-0244 § 35.]

18.20.1440

Interim recycling facility.

“Interim recycling facility” means a *site* or establishment engaged in collection or treatment of *recyclable materials*, which is not the final disposal site, and including:

- A. Drop boxes;
- B. Source-separated, *organic waste processing* facilities; and
- C. Collection, separation and shipment of glass, metal, paper or other recyclables. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.640).]

18.20.1470

Jail.

“Jail” means a facility operated by a governmental agency, designed, staffed and used for the incarceration of persons for the purposes of punishment, correction and rehabilitation following conviction of an offense. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.645).]

18.20.1480

Jail farm.

“Jail farm” means a farm or camp on which persons convicted of minor law violations are confined and participate in agriculture and other work activities of the facility. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.650).]

18.20.1490

Jewelry store.

“Jewelry store” means an establishment engaged in the retail sale of a variety of jewelry products, including gemstones and rock specimens.

18.20.1500

Joint use driveway.

“Joint use driveway” means a jointly owned and/or maintained vehicular access to two residential properties. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.658).]

18.20.1510

Kennel.

“Kennel” means a place where adult dogs are temporarily boarded for compensation, whether or not for training. An adult dog is one of either sex, altered or unaltered, that has reached the age of six months. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.660).]

18.20.1520

Kitchen or kitchen facility.

“Kitchen or kitchen facility” means an area within a *building* intended for the preparation and storage of food and containing:

- A. An appliance for the refrigeration of food;
- B. An appliance for the cooking or heating of food; and
- C. A sink. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.662).]

18.20.1530

Landfill.

“Landfill” means a disposal *site* or part of a *site* at which refuse is deposited. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.665).]

18.20.1540

Landscape water features.

“Landscape water features” means a pond, pool or fountain used as a decorative component of a *development*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.667).]

18.20.1550

Landscaping.

“Landscaping” means live vegetative materials required for a *development*. Said materials provided along the boundaries of a *development site* is referred to as perimeter landscaping. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.670).]

18.20.1560

Landslide.

“Landslide” means episodic downslope movement of a mass including, but not limited to, soil, rock or snow. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.675).]

18.20.1570

Landslide hazard areas.

“Landslide hazard areas” means areas that are potentially subject to risk of mass movement resulting from a combination of geologic, topographic, and hydrologic factors including: bedrock, soil, slope gradient, slope aspect, geologic structure, ground water, or other factors. [Ord. 06-0244 § 6; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.680).]

18.20.1575

Lattice-work tower.

“Lattice-work tower” means a *transmission support structure* that has open-framed supports on three or four sides and is constructed without guy wires and ground anchors.

18.20.1580

Level of service (LOS) traffic.

“Level of service (LOS) traffic” means a quantitative measure of traffic congestion identified by a declining letter scale (A-F) as calculated in accordance with Chapters 12.75 and 12.80 KMC. LOS “A” indicates free flow of traffic with no delays while LOS “F” indicates jammed conditions or extensive delay. [Ord. 08-0292 § 3; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.685).]

18.20.1590

Light equipment.

“Light equipment” means hand-held tools and construction equipment, such as chain saws, wheelbarrows and post-hole diggers. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.690).]

18.20.1600

Livestock.

“Livestock” means grazing animals kept either in open fields or *structures* for training, boarding, home use, sales, or breeding and production, including but not limited to:

- A. Cattle;
- B. Riding and draft horses;
- C. Hogs, excluding pigs weighing under 120 pounds and standing 20 inches or less at the shoulder which are kept as *household pets* or *small animals*;
- D. Sheep; and
- E. Goats. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.695).]

18.20.1610

Livestock, large.

“Large livestock” means cattle, horses, and other *livestock* generally weighing over 500 pounds. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.700).]

18.20.1620

Livestock, small.

“Small livestock” means hogs, excluding pigs weighing under 120 pounds and standing 20 inches or less at the shoulder which are kept as *household pets* or *small animals*, sheep, goats, miniature horses, llamas, alpaca and other *livestock* generally weighing under 500 pounds. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.705).]

18.20.1630

Livestock sales.

“Livestock sales” means the sale of *livestock* but not including auctions. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.710).]

18.20.1640

Loading space.

“Loading space” means a space for the temporary parking of a vehicle while loading or unloading cargo or passengers. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.715).]

18.20.1650

Log storage.

“Log storage” means a facility for the open or enclosed storage of logs which may include repair facilities for equipment used on-site or operations offices. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.720).]

18.20.1660

Lot.

“Lot” means a physically separate and distinct parcel of property, which has been created pursuant to KMC Title 17, Land Division. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.725).]

18.20.1670

Lot line, interior.

“Interior lot line” means lot lines that delineate property boundaries along those portions of the property which do not abut a *street*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.730).]

18.20.1671

Low impact development (LID).

“Low impact development” means a stormwater management and land development strategy that emphasizes conservation and use of existing natural site features integrated with distributed small-scale stormwater controls to more closely mimic natural hydrologic patterns in residential, commercial, and

industrial settings.

18.20.1675

Manufactured home.

“Manufactured home” is defined under WAC 296-150M-0020. The term “manufactured home” does not include a “*recreational vehicle*.” [Ord. 07-0272 § 2.]

18.20.1677

Manufacturing land uses.

“Manufacturing land uses” means food and kindred products manufacture; winery/brewery; textile mill products; apparel and other textile products manufacture; wood products manufacture, except furniture; furniture and fixtures manufacture; paper and allied products manufacture; printing and publishing; chemicals and allied products manufacture; petroleum refining and related industries; rubber and misc. plastics products manufacture; leather and leather goods manufacture; stone, clay, glass and concrete products manufacture; primary metal industries; fabricated metal products; industrial and commercial machinery manufacture; heavy machinery and equipment manufacture; computer and office equipment manufacture; electronic and other electric equipment manufacture; railroad equipment manufacture; guided missile and space vehicle parts manufacture; miscellaneous transportation vehicles manufacture; measuring and controlling instruments manufacture; miscellaneous light manufacturing; *motor vehicle and bicycle manufacturing; aircraft, ship and boat building*; tire retreading; and movie production/distribution.

18.20.1680

Marina.

“Marina” means an establishment providing docking, moorage space and related activities limited to the provisioning or minor repair of pleasure boats and yachts; and accessory facilities including, but not limited to:

- A. Showers;
- B. Toilets; and
- C. Self-service laundries. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.735).]

18.20.1683

Mass wasting.

“Mass wasting” means the spontaneous downhill movement of soil and/or rock under the influence of gravity. [Ord. 06-0244 § 36.]

18.20.1685

Master plan.

A “master plan” consists of a narrative description and map conceptually describing long-term land uses, circulation and infrastructure, *open space*, and development phasing for an area or property to guide future *development*. [Ord. 08-0293 § 2.]

18.20.1695

Medical/dental office/outpatient clinic.

“Medical/dental office/outpatient clinic” means establishments of licensed practitioners having the appropriate degree to practice medicine, dentistry, osteopathy, chiropractics, podiatry, optometry, and other health practitioners. This definition also includes the indoor retail sale of personal medical supplies as an ancillary operation. [Ord. 03-0175 § 6.]

18.20.1700

Microwave.

“Microwave” means electromagnetic waves with a frequency range of 300 megahertz (MHz) to 300 gigahertz (GHz). [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.745).]

18.20.1705**Miscellaneous repair.**

“Miscellaneous repair” means repair of nonpersonal/nonhousehold items, except nonmotorized vehicle repair. This definition excludes *on-site services*. [Ord. 03-0175 § 6.]

18.20.1710**Mitigation.**

“Mitigation” means the use of any or all of the following actions listed in descending order of preference:

- A. Avoiding the impact by not taking a certain action;
- B. Minimizing the impact by limiting the degree or magnitude of the action by using appropriate technology or by taking affirmative steps to avoid or reduce the impact;
- C. Rectifying the impact by repairing, rehabilitating or restoring the affected *critical area* or *buffer*;
- D. Reducing or eliminating the impact over time by preservation or maintenance operations during the life of the *development proposal*;
- E. Compensating for the impact by replacing, enhancing or providing substitute *critical areas* and environments; and
- F. Monitoring the impact and taking appropriate corrective measures. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.750).]

18.20.1720**Mitigation bank.**

“Mitigation bank” means a property that has been protected in perpetuity, and approved by appropriate county, state and federal agencies expressly for the purpose of providing compensatory *mitigation* in advance of authorized impacts through *restoration*, creation, and/or *enhancement* of *wetlands*, and in exceptional circumstances, preservation of adjacent *wetlands*, *wetland buffers*, and/or other aquatic resources. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.751).]

18.20.1730**Mitigation banking.**

“Mitigation banking” means a system for providing compensatory *mitigation* in advance of authorized *wetland* impacts of *development* in the *city* in which credits are generated through *restoration*, creation, and/or *enhancement* of *wetlands*, and in exceptional circumstances, preservation of adjacent *wetlands*, *wetland buffers*, and/or other aquatic resources. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.752).]

18.20.1740**Mixed use development.**

“Mixed use development” means a combination of residential and nonresidential *uses* within the same *building* or *site* as part of an integrated *development* project with functional interrelationships and coherent physical design. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.753).]

18.20.1745**Mobile food vendor.**

“Mobile food vendor” means retail sale of food or beverages from a cart on a nonfixed foundation which is typically removed daily at the close of business, and is located on a sidewalk or near a storefront. [Ord. 03-0175 § 6.]

18.20.1750**Mobile home.**

“Mobile home” is defined under WAC 296-150M-0020. [Ord. 07-0272 § 2; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.755).]

18.20.1760**Mobile home park.**

“Mobile home park” means a *development* with two or more improved pads or spaces designed to accommodate *mobile homes, manufactured homes, or designated manufactured homes*. [Ord. 07-0272 § 2; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.760).]

18.20.1762**Modification.**

For purposes of KMC Chapter 18.60, “modification” means any structural change, addition, or alteration that was not included in an approved site plan. Modifications shall include increased heights and changes in *antenna* type.

18.20.1765**Modulation.**

“Modulation” means variations in a *building facade* through the use of setbacks, upper level setbacks, and/or projections from the *building* which serve to break up the apparent mass and bulk of a *building*.

18.20.1770**Monitoring.**

For purposes of KMC Chapter 18.55, “monitoring” means evaluating the impacts of *development proposals* on the biological, hydrological, and geological elements of *critical areas* and assessing the performance of required *mitigation* measures throughout the collection and analysis of data by various methods. Monitoring serves the purpose of understanding and documenting changes in natural ecosystems and features, and includes gathering baseline data. [Ord. 06-0244 § 7; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.765).]

18.20.1775**Monopole tower.**

“Monopole tower” means a *transmission support structure* consisting of a single pole, without guy wires or ground anchors.

18.20.1785**Motel.**

“Motel” means a *building* or group of detached or connected *buildings* designed or used primarily for providing sleeping accommodations for automobile travelers and typically having a *parking space* adjacent to a sleeping accommodation. This definition excludes *townhouses, apartments, bed and breakfast guesthouses, and hotels*. [Ord. 03-0175 § 6.]

18.20.1790**Motor vehicle and boat dealers.**

“Motor vehicle and boat dealers” means establishments engaged in the retail sale of new and/or used automobiles, motor homes, motorcycles, trailers, or boats.

18.20.1800**Motor vehicle and bicycle manufacturing.**

“Motor vehicle and bicycle manufacturing” means fabricating or assembling complete passenger automobiles, trucks, commercial cars and buses, motorcycles, and bicycles.

18.20.1810**Mulch.**

“Mulch” means any material such as leaves, bark, straw left loose and applied to the soil surface to reduce evaporation. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.782).]

18.20.1820**Municipal water production.**

“Municipal water production” means the collection and processing of surface water through means of dams or other methods of impoundment for municipal water systems. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.785).]

18.20.1830**Native vegetation.**

“Native vegetation” means *vegetation* comprised of plant species, other than *noxious weeds*, which are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur on the *site*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.790).]

18.20.1850**Net buildable area.**

“Net buildable area” means the “*site area*” less the following areas:

- A. Areas within or on the perimeter of a project *site* which are required to be dedicated for public rights-of-way;
- B. *Critical areas* and their *buffers* to the extent they are required by the *city* to remain undeveloped;
- C. Areas required for stormwater control facilities other than facilities which are completely underground, including but not limited to, retention/detention ponds, biofiltration swales and setbacks from such ponds and swales;
- D. Areas required by the *city* to be dedicated or reserved as on-site recreation areas;
- E. *Regional utility corridors*;
- F. Other areas, excluding *setbacks*, required by the *city* to remain undeveloped. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.797).]

18.20.1860**Nonconformance.**

“Nonconformance” means any *use*, improvement or *structure* established in conformance with the *city* rules and regulations in effect at the time of establishment that no longer conforms to the range of *uses* permitted in the *site*’s current zone or to the current development standards of the code due to changes in the code or its application to the subject property. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.800).]

18.20.1870**Nonhydroelectric generation facility.**

“Nonhydroelectric generation facility” means an establishment for the generation of electricity by nuclear reaction, burning fossil fuels, or other electricity generation methods. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.805).]

18.20.1875**Nonindigenous.**

“Nonindigenous” means any species of plants or animals not native to the Puget Sound region. [Ord. 06-0244 § 37.]

18.20.1880**Nonionizing electromagnetic radiation (NIER).**

“Nonionizing electromagnetic radiation (NIER)” means electromagnetic radiation of low photon energy unable to cause ionization. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.810).]

18.20.1890**Noxious weed.**

“Noxious weed” means any plant which is highly destructive, competitive or difficult to control by cultural or chemical practices, limited to those plants on the state noxious weed list contained in Chapter 16-750 WAC. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.815).]

18.20.1900**Off-street required parking lot.**

“Off-street required parking lot” means parking facilities constructed to meet the off-street parking requirements of Chapter 18.40 KMC for land uses located on a *lot* separate from the parking facilities. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.817).]

18.20.1910**Open space.**

“Open space” means areas left predominately in a natural state to create urban separators and greenbelts, sustain native ecosystems, connect and increase protective *buffers* for *critical areas*, provide a visual contrast to continuous *development*, reinforce community identity and aesthetics, or provide links between important environmental or recreational resources. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.819).]

18.20.1920**Open-work fence.**

“Open-work fence” means a *fence* in which the solid portions are evenly distributed and constitute no more than 50 percent of the total surface area. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.820).]

18.20.1930**Ordinary high water mark.**

“Ordinary high water mark” means the mark found by examining the bed and banks of a *stream* or lake and ascertaining where the presence and action of waters are so common and long maintained in ordinary years as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute. In any area where neither can be found, the top of the channel bank shall substitute. In braided channels and alluvial fans, the ordinary high water mark or line of mean high water shall be measured so as to include the entire stream feature. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.825).]

18.20.1940**Outdoor performance center.**

“Outdoor performance center” means an establishment for the performing arts with open-air seating for audiences. Such establishments may include related services such as food and beverage sales and other concessions. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.830).]

18.20.1945**Outdoor retail display/sidewalk sale.**

“Outdoor retail display/sidewalk sale” means exhibit of goods which are directly accessible to the public for retail sale. These display areas are accessory to the principal indoor retail use. [Ord. 03-0175 § 6.]

18.20.1960**Park.**

“Park” means a *site* designed or developed for recreational use by the public including, but not limited to:

- A. Indoor facilities, such as:
 - 1. Gymnasiums;
 - 2. Swimming pools; or
 - 3. Activity centers;
- B. Outdoor facilities, such as:
 - 1. Playfields;
 - 2. Fishing areas;
 - 3. Picnic and related outdoor activity areas; or
 - 4. Approved *campgrounds*;
- C. Areas and *trails* for:
 - 1. Hikers;

- 2. Equestrians;
- 3. Bicyclists; or
- 4. Off-road recreational vehicle users;
- D. Areas provided under KMC 18.30.120 or 18.30.140;
- E. Facilities for on-site maintenance. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.835).]

18.20.2000

Parking space.

“Parking space” means an area accessible to vehicles, improved, maintained and used for the sole purpose of parking a motor vehicle. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.855).]

18.20.2030

Peak hour.

“Peak hour” means the hour during the morning or afternoon when the most critical *level of service* occurs for a particular roadway or intersection. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.870).]

18.20.2035

Pedestrian walkway.

“Pedestrian walkway” means a public walkway that connects public *streets* to other *streets*, walkways, *public spaces*, or drives. Public walkways should be lit for nighttime use and be aligned for maximum nighttime visibility.

18.20.2040

Permanent school facilities.

“Permanent school facilities” means facilities of a *school district* with a fixed foundation which are not *relocatable facilities*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.875).]

18.20.2050

Personal medical supply store.

“Personal medical supply store” means an establishment engaged in the retail sale of eyeglasses, contact lenses, hearing aids, and artificial limbs.

18.20.2060

Pet shop.

“Pet shop” means an establishment engaged in the retail sale of *household pets*, *small animals*, or their supplies or grooming.

18.20.2070

Photographic and electronic shop.

“Photographic and electronic shop” means an establishment engaged in the retail sale of cameras and photographic supplies, and a variety of household electronic equipment, including radio, television and consumer electronic stores, and computer and computer software stores.

18.20.2102

Practical alternative.

“Practical alternative” means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and has less impacts to *critical areas*. [Ord. 06-0244 § 40.]

18.20.2104

Priority habitat.

“Priority habitat” means a habitat type or elements with unique or significant value to one or more *species* as classified by the Washington State Department of Fish and Wildlife. A priority habitat may consist of a

unique *vegetation* type or dominant plant species, a described successional stage, or a specific structural element. (WAC 173-26-020(34)). [Ord. 06-0244 § 41.]

18.20.2110

Private.

“Private” means solely or primarily for the use of residents or occupants of the premises; e.g., a noncommercial garage used solely by residents or their guests is a private garage. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.900).]

18.20.2120

Private stormwater management facility.

“Private stormwater management facility” means a surface water control *structure* installed by a project proponent to retain, detain or otherwise limit runoff from an individual or group of developed sites specifically served by such *structure*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.905).]

18.20.2130

Professional office.

“Professional office” means an office used as a place of business by licensed professionals, or persons in other generally recognized professions, which use training or knowledge of a technical, scientific or other academic discipline as opposed to manual skills, and which does not involve outside storage or fabrication, or on-site sale or transfer of commodities.

18.20.2135

Pro shop.

A “pro shop” is a *building* or room where the retail operation of a golf course takes place. The functions of a pro shop may include, but are not limited to, tee time reservations, club fitting, handicap posting area, and sales of golf equipment, clothing, accessories, and similar items. [Ord. 08-0293 § 2.]

18.20.2140

Public agency.

“Public agency” means any agency, political subdivision or unit of government including, but not limited to, municipal corporations, special purpose districts and local service districts, any agency of the state of Washington, the United States or any state thereof or any Indian tribe recognized as such by the federal government. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.915).]

18.20.2150

Public agency animal control facility.

“Public agency animal control facility” means a facility for the impoundment and disposal of stray or abandoned *household pets* or *small animals*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.920).]

18.20.2160

Public agency archive.

“Public agency archive” means a facility for the enclosed storage of *public agency* documents or related materials, excluding storage of vehicles, equipment, or similar materials. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.925).]

18.20.2170

Public agency or utility office.

“Public agency or utility office” means an office for the administration of any governmental or utility activity or program, with no *outdoor storage*.

18.20.2180**Public agency or utility yard.**

“Public agency or utility yard” means a facility for open or enclosed storage, repair, and maintenance of vehicles, equipment, or related materials, excluding document storage. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.935).]

18.20.2190**Public agency training facility.**

“Public agency training facility” means an establishment or school for training state and local law enforcement, fire safety, national guard or transit personnel and facilities including but not limited to:

- A. Dining and overnight accommodations;
- B. Classrooms;
- C. *Shooting ranges*;
- D. Auto test tracks; and
- E. Fire suppression simulations. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.940).]

18.20.2195**Public space/public open space.**

“Public space/public open space” means an open space or plaza in an area between a *building* and a *street* or *pedestrian walkway* where people gather or sit. Public spaces are open for public use during the daytime and evening and are visible from adjacent *streets*. Public spaces contain site furnishings, artwork, landscaping, pedestrian lighting, and other amenities which make the space comfortable and inviting. Public spaces may be government owned or dedicated property or areas open to all persons by design or intent.

18.20.2202**Public view.**

“Public view” means areas which are visible from adjacent public *streets*, walkways, or *public spaces*.

18.20.2205**Qualified professional.**

“Qualified professional” means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant *critical area* subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geology, geomorphology or a related field, and have two years of related work experience.

A. A qualified professional for habitats or *wetlands* must have a degree in biology and professional experience related to the subject *species*;

B. A qualified professional for a geological hazard must be a professional engineer or *geologist* licensed in the state of Washington. [Ord. 06-0244 § 42.]

18.20.2207**Qualified tree protection professional.**

“Qualified tree protection professional” means a licensed professional with academic and/or field experience that makes her or him a recognized expert in *tree* preservation and management. The tree protection professional may be an arborist certified by the International Society of Arboriculture or be an arborist registered with the American Society of Consulting Arborists, and shall have specific experience with *tree* management in the state of Washington. A qualified tree protection professional must possess the ability to evaluate the health and hazard potential of existing *trees*, and the ability to prescribe appropriate measures necessary for the preservation of *trees* during *development*.

18.20.2210**Radio frequency.**

“Radio frequency” means the number of times the current from a given source of *nonionizing electromagnetic radiation* changes from a maximum positive level through a maximum negative level and back to a maximum positive level in one second; measured in cycles per second or Hertz (Hz). [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.945).]

18.20.2220**Reasonable use.**

“Reasonable use” means a legal concept articulated by federal and state courts in regulatory taking cases. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.950).]

18.20.2230**Receiving site.**

“Receiving site” means land for which allowable residential density is increased over the base density permitted by the underlying zone, by virtue of permanently securing and dedicating to the *city*, or another qualifying agency, the development potential of an associated *sending site*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.955).]

18.20.2231**Reclassification.**

“Reclassification” means a change in the zone classification on the zoning map pursuant to a Type 4 land use permit decision, where the reclassification is not related to a comprehensive plan land use map amendment.

18.20.2232**Recreational/cultural land uses.**

“Recreational/cultural land uses” means *park; trails; campgrounds; destination resorts; marina; recreational vehicle park; sports club; adult entertainment business; theater; theater, drive-in; bowling center; golf facility; amusement and recreation services; shooting range; amusement arcades; amusement park; outdoor performance center; library; museum; arboretum; and conference center.*

18.20.2234**Recreational facilities, indoor.**

“Recreational facilities, indoor” means a place designed and equipped for the conduct of sports and leisure-time activities within an enclosed space. Examples include gymnasiums, *amusement arcades, sports clubs*, bowling alleys, and indoor swimming pools. This definition excludes sports arenas, shooting galleries, and outdoor recreation facilities. [Ord. 03-0175 § 6.]

18.20.2237**Recreational facilities, outdoor.**

“Recreational facilities, outdoor” means a place designed and equipped for the conduct of sports and leisure-time activities with little or no enclosed space. Examples include: *private* outdoor tennis courts, *private* outdoor swimming pools, batting cages, miniature golf courses, golf driving ranges, and playgrounds. This definition excludes *marinas, parks, golf courses* and sports arenas. [Ord. 03-0175 § 6.]

18.20.2240**Recreational vehicle (RV).**

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

- A. Travel trailer;
- B. Folding camping trailer;

- C. Park trailer;
- D. Truck camper;
- E. Park trailer;
- F. Motor home; and
- G. Multi-use vehicle. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.960).]

18.20.2250**Recreational vehicle parks.**

“Recreational vehicle parks” means the use of land upon which two or more *recreational vehicle sites*, including hook up facilities, are located for occupancy by the general public of *recreational vehicles* as temporary living quarters for recreation or vacation purposes. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.965).]

18.20.2260**Recyclable material.**

“Recyclable material” means a nontoxic, recoverable substance that can be reprocessed for the manufacture of new products. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.970).]

18.20.2275**Regional land uses**

“Regional land uses” means *jail; jail farm/camp; work release facility; public agency animal control facility; public agency training facility; hydroelectric generation facility; nonhydroelectric generation facility; communication facility; earth station; oil and gas extraction; energy resource recovery facility; soil recycling facility; landfill; transfer station; wastewater treatment facility; municipal water production; airport/heliport; transit bus base; school bus base; racetrack; fairground; zoo/wildlife exhibit (except arboretum); stadium/arena; college/university (except technical institutions); and secure community transition facilities.*

18.20.2280**Regional stormwater management facility.**

“Regional stormwater management facility” means a surface water control *structure* installed in or adjacent to a *stream* or *wetland* of a basin or *sub-basin* by the *department* or a project proponent. Such facilities protect downstream areas identified by the *department* as having previously existing or predicted significant regional basin flooding or *erosion* problems. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.975).]

18.20.2290**Regional utility corridor.**

“Regional utility corridor” means a right-of-way tract or easement other than a *street* right-of-way which contains transmission lines or pipelines for utility companies. Right-of-way tracts or easements containing lines serving individual *lots* or *developments* are not regional utility corridors. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.980).]

18.20.2310**Relocatable facility.**

“Relocatable facility” means any factory-built *structure*, transportable in one or more sections that is designed to be used as an education space and is needed to prevent the overbuilding of school facilities, to meet the needs of service areas within a district or to cover the gap between the time that families move into new residential *developments* and the date that construction is completed on *permanent school facilities*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.990).]

18.20.2320**Relocation facilities.**

“Relocation facilities” means housing units within the *city* that provide housing to persons who have been involuntarily displaced from other housing units within the *city* as a result of conversion of their housing unit to other land uses. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.995).]

18.20.2325**Residential land uses.**

“Residential land uses” means *single detached dwelling unit; townhouse; apartment; mobile home and manufactured home; mobile home park; family child-care home; community residential facility I; community residential facility II; assisted living; dormitory; residential accessory uses; home occupation; home industry; hotel/motel (except bed and breakfast guesthouses); bed and breakfast guesthouse; and organization hotel/lodging houses.*

18.20.2327**Resource land uses.**

“Resource land uses” means growing and harvesting crops; raising *livestock and small animals*; growing and harvesting forest products; *forest research*; hatchery/fish preserve; aquaculture; *wildlife shelters*; mineral extraction and processing; asphalt/concrete mixtures and block manufacture; and *resource accessory uses.*

18.20.2330**Restoration.**

“Restoration” means measures taken to restore an altered or damaged natural feature including:

A. Active steps taken to restore damaged *wetlands, streams*, protected habitat, or their *buffers* to the functioning condition that existed prior to an unauthorized *alteration*; and

B. Actions performed to reestablish structural and functional characteristics of the *critical area* that have been lost by *alteration*, past management activities, or catastrophic events. [Ord. 06-0244 § 8; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1000).]

18.20.2350**Retail, comparison.**

“Comparison retail” provides for the sale of comparison goods and services and is centrally located in the community or region. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1005).]

18.20.2362**Retail land uses.**

“Retail land uses” means *building, hardware and garden materials stores; forest product sales; department and variety stores; food stores; agricultural product sales; motor vehicle and boat dealers; auto supply stores; gasoline service stations; apparel and accessory stores; furniture and home furnishings stores; eating and drinking places; drug stores; liquor stores; used goods; antiques/secondhand shops; sporting goods and related stores; book, stationery, video and art supply stores; jewelry stores; monuments, tombstones, and gravestones sales; hobby, toy, game shops; photographic and electronic shops; fabric shops; fuel dealers; florist shops; personal medical supply stores; pet shops; bulk retail; auction houses; and livestock sales.*

18.20.2364**Retail sales.**

“Retail sales” means establishments within a permanent *structure* of less than 65,000 square feet engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. This definition excludes *auction houses*, auto supply stores, *bulk retail*, outdoor retail sales, *motor vehicle and boat dealers*, and eating and drinking places. [Ord. 03-0175 § 6.]

18.20.2367**Retail sales, outdoor.**

“Retail sales, outdoor” means the display and sale of products and services primarily outside of a *building* or *structure*, including but not limited to garden supplies, tires and motor oil, *manufactured homes*, burial

monuments, building and landscape materials, and lumber yards. This definition excludes *motor vehicle and boat dealers, outdoor retail display/sidewalk sales, mobile food vendors, city-authorized temporary uses, or city-authorized uses* allowed in public plazas or outdoor performance spaces on a temporary but regular basis. [Ord. 03-0175 § 6.]

18.20.2370**Retaining wall.**

“Retaining wall” means any wall used to resist the lateral displacement of any material. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1011).]

18.20.2375**Riparian.**

“Riparian” means areas adjacent to aquatic systems with flowing water that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other. The width of these areas extends to that portion of the terrestrial landscape that directly influences the aquatic ecosystem by providing shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for riparian-associated wildlife. Widths shall be measured from the *ordinary high water mark* or from the top of bank if the *ordinary high water mark* cannot be identified. It includes the entire extent of the *floodplain* and the extent of *vegetation* adapted to wet conditions as well as adjacent upland plant communities that directly influence the aquatic system. Riparian habitat areas include those riparian areas severely altered or damaged due to human development activities. [Ord. 06-0244 § 43.]

18.20.2410**Salmonid.**

“Salmonid” means a member of the fish family Salmonidae, such as Chinook, coho, chum, sockeye salmon, bull trout and cutthroat trout. [Ord. 06-0244 § 9; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1015).]

18.20.2420**School bus base.**

“School bus base” means an establishment for the storage, dispatch, repair and maintenance of coaches and other vehicles of a school transit system. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1020).]

18.20.2430**School district.**

“School district” means any school district in Kenmore. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1025).]

18.20.2440**School district support facility.**

“School district support facility” means *uses* (excluding schools and bus bases) that are required for the operation of a *school district*. This term includes *school district* administrative offices, centralized *kitchens*, and maintenance or storage facilities. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1030).]

18.20.2450**Schools, elementary, and middle/junior high.**

“Schools, elementary, and middle/junior high” means institutions of learning offering instruction in the several branches of learning and study required by the Education Code of the state of Washington in grades kindergarten through nine, including associated meeting rooms, auditoriums and athletic facilities. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1035).]

18.20.2460**Schools, secondary or high school.**

“Schools, secondary or high school” means institutions of learning offering instruction in the several branches of learning and study required by the Education Code of the state of Washington in grades nine through 12, including associated meeting rooms, auditoriums and athletic facilities. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1040).]

18.20.2462**Section 404 permit.**

“Section 404 permit” means a permit issued by the Corps of Engineers for the placement of dredge or fill material or *clearing* in waters of the U.S., including *wetlands*, in accordance with 33 USC Section 1344. [Ord. 06-0244 § 44.]

18.20.2465**Secure community transition facilities (SCTF).**

“Secure community transition facility” means a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under this chapter. A secure community transition facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. Secure community transition facilities include but are not limited to the facilities established pursuant to RCW 71.09.250 and any community-based facilities established under this chapter and operated by the secretary or under contract with the secretary. [Ord. 02-0145 § 3; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1042).]

18.20.2470**Seismic hazard areas.**

“Seismic hazard areas” means areas in the *city* that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction. [Ord. 06-0244 § 10; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1045).]

18.20.2480**Self-service storage.**

“Self-service storage” means an establishment containing separate storage spaces that are leased or rented as individual units. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1050).]

18.20.2490**Sending site.**

“Sending site” means land capable of providing a public benefit if permanently protected by virtue of having its zoned development potential transferred to another property. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1055).]

18.20.2500**Senior citizen.**

“Senior citizen” means a person aged 62 or older. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1060).]

18.20.2524**Services, off-site.**

“Services, off-site” means establishments primarily engaged in providing individual or professional services at the customer’s home or place of business. Examples of off-site services include but are not limited to temporary employment services, janitorial services, and professional maid services. [Ord. 03-0175 § 6.]

18.20.2527**Services, on-site.**

“Services, on-site” means establishments primarily engaged in providing individual or professional services within the place of business, such as beauty and barber shops, retail laundry and dry-cleaning including coin-operated, garment alterations and repair, photo studios, shoe repair, pet grooming, photography and photo reproduction, personal accountants, entertainment media rental or other indoor rental services, repair of personal items or household items, and nonmotorized vehicle repair. This definition excludes automotive repair or automotive service and *miscellaneous repair*. [Ord. 03-0175 § 6.]

18.20.2530**Setback.**

“Setback” means the required distance between a *structure* and a specified line such as a lot, easement or *buffer* line that is required to remain free of *structures*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1070).]

18.20.2540**Shelters for temporary placement.**

“Shelters for temporary placement” means housing units within the *city* that provide housing to persons on a temporary basis for a duration not to exceed four weeks. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1075).]

18.20.2550**Shooting range.**

“Shooting range” means a facility designed to provide a confined space for safe target practice with firearms, archery equipment, or other weapons. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1080).]

18.20.2560**Sign.**

“Sign” means any device, *structure*, fixture, or placard that is visible from a public right-of-way or surrounding properties and uses graphics, symbols, or written copy for the purpose of advertising or identifying any establishment, product, goods, or service. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1085).]

18.20.2570**Sign, awning.**

“Awning sign” means a *sign* painted on or attached directly to and supported by an awning. An awning may be constructed of rigid or nonrigid materials and may be retractable or nonretractable. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1090).]

18.20.2580**Sign, changing message center.**

“Changing message center sign” means an electrically controlled *sign* that contains advertising messages which changes at intervals of three minutes or greater. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1095).]

18.20.2590**Sign, community bulletin board.**

“Community bulletin board sign” means a permanent *sign* used to notify the public of community events and public services, and which contains no commercial advertising. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1100).]

18.20.2600**Sign, directional.**

“Directional sign” means a *sign* designed to guide or direct pedestrian or vehicular traffic to an area, place or convenience, and may include incidental graphics such as trade names and trademarks. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1105).]

18.20.2610

Sign, freestanding.

“Freestanding sign” means a *sign* standing directly upon the ground or having one or more supports standing directly upon the ground, and being detached from any *building* or *fence*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1110).]

18.20.2620

Sign, fuel price.

“Fuel price sign” means a *sign* utilized to advertise the price of gasoline and/or diesel fuel. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1115).]

18.20.2630

Sign, incidental.

“Incidental sign” means a *sign*, emblem or decal designed to inform the public of goods, facilities, or services available on the premises, and may include but not be limited to *signs* designating:

- A. Restrooms;
- B. Hours of operation;
- C. Acceptable credit cards;
- D. Property ownership or management;
- E. Phone booths; and
- F. Recycling containers. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1120).]

18.20.2640

Sign, indirectly illuminated.

“Indirectly illuminated sign” means a *sign* that is illuminated entirely from an external artificial source. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1125).]

18.20.2650

Sign, monument.

“Monument sign” means a *freestanding sign* that is above ground level and is anchored to the ground by a solid base, with no open space between the *sign* and the ground. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1130).]

18.20.2660

Sign, off-premises directional.

“Off-premises directional sign” means a *sign* which contains no advertising of a commercial nature which is used to direct pedestrian or vehicular traffic circulation to a facility, service or business located on other premises within 660 feet of the *sign*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1135).]

18.20.2670

Sign, on-premises.

“On-premises sign” means a *sign* which displays a message which is incidental to and directly associated with the *use* of the property on which it is located. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1140).]

18.20.2680

Sign, permanent residential development identification.

“Permanent residential development identification sign” means a permanent *sign* identifying the residential *development* upon which the *sign* is located. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1145).]

18.20.2690

Sign, portable.

“Portable sign” means a *sign* which is capable of being moved and is not permanently affixed to the ground, a *structure* or *building*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1150).]

18.20.2700**Sign, projecting.**

“Projecting sign” means any *sign* which is attached to and supported by the exterior wall of a *building* with the exposed face of the *sign* on a plane perpendicular to the wall of the *building*; projecting more than one foot from the wall of a *building* and vertical to the ground. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1155).]

18.20.2710**Sign, time and temperature.**

“Time and temperature sign” means an electrically controlled *sign* that contains messages for date, time, and temperature, which changes at intervals of one minute or less. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1160).]

18.20.2720**Sign, wall.**

“Wall sign” means any *sign* painted on, or attached directly to and supported by, a *building* or *structure*; with the exposed face of the *sign* on a plane parallel to the portion of the *building* or *structure* to which it is attached; projecting no more than one foot from the *building* or *structure*; including window *signs* which are permanently attached. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1165).]

18.20.2730**Significant tree.**

“Significant tree” means an existing healthy *tree* that is not a *hazard tree* (i.e., a *tree* that does not have a high probability of imminently falling due to a debilitating disease or structural defect) and that, when measured four and one-half feet above grade, has a minimum diameter of:

- A. Eight inches for *evergreen trees*; or
- B. Twelve inches for *deciduous trees*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1167).]

18.20.2740**Site.**

“Site” means a single *lot*, or two or more contiguous *lots* that are under common ownership or documented legal control, used as a single parcel for a *development proposal* in order to calculate compliance with the standards and regulations of this title. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1170).]

18.20.2750**Site area.**

“Site area” means the total horizontal area of a project *site*, less areas below the *ordinary high water mark*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1172).]

18.20.2782**Social card game.**

“Social card game” is defined as set forth in RCW 9.46.0282, as now in effect or as may be subsequently amended or recodified. [Ord. 06-0243 § 1; Ord. 05-0237 § 2.]

18.20.2784**Social services.**

“Social services” means establishments or agencies offering social or rehabilitation services. Subcategories include:

“**Social services, correctional**” that offer offender rehabilitation, offender self-help, parole or probation services; and

“**Social services, noncorrectional**” that provide services including, but not limited to, individual and family counseling, welfare, relief, referral, job training, or vocational services. “Social services, noncorrectional” includes social advocacy organizations. [Ord. 03-0175 § 6.]

18.20.2790

Soil recycling facility.

“Soil recycling facility” means an establishment engaged in the collection, storage and treatment of contaminated soils to remove and re-use organic contaminants. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1185).]

18.20.2810

Special use permit.

“Special use permit” means a permit granted by the *city* to locate a *regional land use* at a particular location, subject to conditions placed on the proposed *use* to ensure compatibility with adjacent land uses. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1195).]

18.20.2820

Specialized instruction school.

“Specialized instruction school” means establishments engaged in providing specialized instruction in a designated field of study, rather than a full range of courses in unrelated areas; including, but not limited to:

- A. Art;
- B. Dance;
- C. Music;
- D. Cooking;
- E. Driving; and
- F. Pet obedience training. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1200).]

18.20.2822

Species.

“Species” means any group of animals classified as a species or subspecies as commonly accepted by the scientific community. [Ord. 06-0244 § 45.]

18.20.2824

Species, endangered.

“Species, endangered” means any fish or wildlife *species* that is threatened with extinction throughout all or a significant portion of its range and is listed by the state or federal government as an endangered species. [Ord. 06-0244 § 46.]

18.20.2826

Species, threatened.

“Species, threatened” means any fish or wildlife *species* that is likely to become an *endangered species* within the foreseeable future throughout a significant portion of its range without cooperative management or removal of threats, and is listed by the state or federal government as a threatened species. [Ord. 06-0244 § 47.]

18.20.2840

Sporting goods store.

“Sporting goods store” means an establishment engaged in the retail sale of sporting goods and equipment.

18.20.2850

Sports club.

“Sports club” means an establishment engaged in operating physical fitness facilities and sports and recreation clubs.

18.20.2860

Stable.

“Stable” means a *structure* or facility in which horses or other *livestock* are kept for:
A. Boarding;

- B. Training;
- C. Riding lessons;
- D. Breeding;
- E. Rental; or
- F. Personal use. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1220).]

18.20.2870**Standard of service, school districts.**

“School districts standard of service” means the standard adopted by each *school district* which identifies the program year, the class size by *grade span* and taking into account the requirements of students with special needs, the number of *school classrooms*, the types of facilities the district believes will best serve its student population, and other factors as identified by the *school district*. The district’s standard of service shall not be adjusted for any portion of the classrooms housed in *relocatable facilities* which are used as transitional facilities or for any specialized facilities housed in *relocatable facilities*. Except as otherwise defined by the school board pursuant to a board resolution, transitional facilities shall mean those facilities that are used to cover the time required for the construction of permanent facilities; provided, that the “necessary financial commitments” as defined in Chapter 18.45 KMC are in place to complete the permanent facilities called for in the capital plan. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1225).]

18.20.2884**Storage, indoor.**

“Storage, indoor” means a *use* engaged in the storage of goods and/or materials characterized by infrequent pick-up and delivery, and located within a *building*. Indoor storage *uses* typically are enclosed and provide supervised access to the storage areas within the *building*. The definition excludes *self-service storage*, warehousing and distribution. [Ord. 03-0175 § 6.]

18.20.2887**Storage, outdoor.**

“Storage, outdoor” means a *use* engaged in outdoor storage for more than 24 hours, wholesale, rental, and distribution of manufactured products, supplies, and equipment. This definition excludes hazardous material storage, *indoor storage*, *self-service storage*, vehicle storage, and *warehousing and wholesale trade*. [Ord. 03-0175 § 6.]

18.20.2890**Stream functions.**

“Stream functions” means natural processes performed by *streams* including functions which are important in facilitating food chain production, providing habitat for nesting, rearing and resting sites for aquatic, terrestrial and avian *species*, maintaining the availability and quality of water, such as purifying water, acting as recharge and discharge areas for groundwater aquifers, moderating surface and stormwater flows and maintaining the free flowing conveyance of water, sediments and other organic matter. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1235).]

18.20.2900**Stream.**

“Stream” means water contained within a channel, either perennial or intermittent, and classified according to WAC 222-16-030 or 222-16-031. Streams also include natural watercourses modified by man. Streams do not include irrigation ditches, wasteways, drains, outfalls, operational spillways, channels, stormwater runoff facilities or other wholly artificial watercourses, except those that directly result from the modification to a natural watercourse. Artificial drainage features with documented fish usage are regulated as streams. [Ord. 06-0244 § 11; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1240).]

18.20.2910**Street.**

“Street” means a public or recorded *private* thoroughfare providing pedestrian and vehicular access through neighborhoods and communities and to abutting property. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1245).]

18.20.2920**Street frontage.**

“Street frontage” means any portion of a *lot* or combination of *lots* which directly abut a *street*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1250).]

18.20.2925**Street tree.**

“Street tree” means *trees* located within the *street* right-of-way, adjacent to public or *private streets*, including undeveloped areas.

18.20.2930**Structure.**

“Structure” means anything permanently constructed in or on the ground, or over the water; excluding *fences* eight feet or less in height, decks less than 18 inches above grade, paved areas, and structural or nonstructural fill. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1255).]

18.20.2945**Subdrainage basin or sub-basin.**

“Subdrainage basin” or “sub-basin” means the drainage area of the highest order *stream* containing the subject property impact area. “Stream order” is the term used to define the position of a *stream* in the hierarchy of tributaries in the watershed. The smallest *streams* are the highest order (first order) tributaries. These are the upper watershed *streams* and have no tributaries of their own. When two first order *streams* meet, they form a second order *stream*, and when two second order *streams* meet they become a third order *stream*, and so on. [Ord. 06-0244 § 49.]

18.20.2960**Substantial improvement.**

“Substantial improvement” means any maintenance, repair, structural modification, addition or other improvement of a *structure*, the cost of which equals or exceeds 50 percent of the market value of the *structure* either before the maintenance, repair, modification or addition is started or before the damage occurred, if the *structure* has been damaged and is being restored. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1270).]

18.20.2965**Taxi stand.**

“Taxi stand” means a facility for pick-up and drop-off of taxi patrons, typically characterized by an area for queuing passengers and taxis. [Ord. 03-0175 § 6.]

18.20.2970**Theater.**

“Theater” means an establishment primarily engaged in the indoor exhibition of motion pictures or of live theatrical presentations. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1277).]

18.20.2980**Theatrical production services.**

“Theatrical production services” means an establishment engaged in theatrical production (except motion picture), bands, orchestras, and entertainers, except establishments primarily engaged in providing live

theatrical presentations, such as road companies and summer *theaters*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1278).]

18.20.3000

Trails.

“Trails” means manmade pathways designed and intended for use by pedestrians, bicyclists, equestrians, and/or recreational users. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1285).]

18.20.3010

Transfer station.

“Transfer station” means a staffed collection and transportation facility used by private individuals and route collection vehicles to deposit solid waste collected off-site into larger transfer vehicles for transport to permanent disposal sites; and may also include recycling facilities involving collection or processing for shipment. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1290).]

18.20.3020

Transit bus base.

“Transit bus base” means an establishment for the storage, dispatch, repair and maintenance of coaches and other vehicles of a public transit system. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1295).]

18.20.3023

Transit center.

“Transit center” means any facility designed for accommodating large numbers of public transportation passengers to wait, board, and disembark at the intersection of multiple transit routes. [Ord. 03-0175 § 6.]

18.20.3030

Transitional housing facilities.

“Transitional housing facilities” means housing units within the *city* owned by public housing authorities, nonprofit organizations or other public interest groups that provide housing to persons on a temporary basis for a duration not to exceed 24 months in conjunction with job training, self sufficiency training, and human services counseling; the purpose of which is to help persons make the transition from homelessness to placement in permanent housing. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1305).]

18.20.3040

Transmission equipment.

“Transmission equipment” means equipment, such as *antennas* and satellite, or point-to-point *microwave* dishes, that transmits or receives radio signals. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1310).]

18.20.3060

Transmission support structure.

“Transmission support structure” means a *monopole* or *lattice-work tower* specifically designed and intended to support *antennas* and related communication equipment. The term does not include *monopoles* or *lattice-work towers* supporting above-ground distribution or transmission lines for utility services such as electric, telephone, cable, etc. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1320).]

18.20.3065

Transmission support structure, alternative.

“Alternative transmission support structure” means the following manmade *structures*: clock towers, bell towers, church steeples, water towers, light poles, utility structures, elevated roadways, bridges, flagpoles, existing conforming telecommunications facilities, warehouses, factories, windmills, barns, silos, commercial buildings, commercial *signs*, *billboards*, multi-family buildings, and publicly used *structures* such as police and fire stations, libraries, community centers, civic centers, courthouses, churches, schools, hospitals; and other similar *structures* as approved by the *city manager*.

18.20.3067

Transmission support structure, guyed.

“Guyed transmission support structure” means a *transmission support structure* that is supported, in whole or in part, by guy wire and ground anchors.

18.20.3070

Transmitter building.

“Transmitter building” means a *building* used to contain communication *transmission equipment*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1325).]

18.20.3082

Tree.

“Tree” means a self-supporting woody perennial plant characterized by one main stem or trunk of at least six inches d.b.h., or a multiple stemmed or trunk system with a definite *crown*, maturing at a height of at least 12 feet above ground level. The *department* shall determine whether any specific woody plant shall be considered a tree.

18.20.3084

Tree, hazard.

“Hazard tree” means any *tree* with any structural defect, disease, damage, or combinations of these which make it subject to a high probability of failure which might cause damage to persons or property. A “hazard tree” includes, but is not limited to, any isolated *tree(s)* that have a high probability of failure due to low *wind-firmness* in post-construction conditions as determined by a *qualified tree protection professional*.

18.20.3088

Tree, remove or removal.

“Remove” or “removal” with regard to *trees* means the act of removing a *tree* by digging up, cutting down, or any act which causes a *tree* to die within a period of three years from such act.

18.20.3095

Unavoidable impact.

“Unavoidable impact” means adverse impacts to a *critical area* that remain after all appropriate and practicable avoidance and minimization have been achieved. [Ord. 06-0244 § 50.]

18.20.3110

Use.

“Use” means activity or function carried out on an area of land, or in a *building* or *structure* located thereon. Any use subordinate or incidental to the primary use on a *site* is considered an *accessory use*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1345).]

18.20.3111

Uses, classified.

“Uses, classified” means a use which appears in any list of permitted, conditional, accessory or prohibited *uses* in this title.

18.20.3112

Uses, permitted.

“Uses, permitted” means land *uses* allowed outright within a zone. [Ord. 03-0175 § 6.]

18.20.3114

Uses, prohibited.

“Uses, prohibited” means any land *use* not specifically enumerated or permitted as allowable in that district. [Ord. 03-0175 § 6.]

18.20.3117

Uses, unclassified.

“Uses, unclassified” means a *use* which does not appear in any list of permitted, conditional, accessory, or prohibited *uses* in this title, but which is interpreted by the *city manager* as similar to a listed permitted, conditional, accessory, or prohibited *use*. [Ord. 03-0175 § 6.]

18.20.3120

Utility facility.

“Utility facility” means a facility for the distribution or transmission of services to an area; including, but not limited to:

- A. Telephone exchanges;
- B. Water pumping or treatment stations or distribution systems;
- C. *Electrical substations*;
- D. Water storage reservoirs or tanks;
- E. Municipal groundwater well-fields;
- F. *Regional stormwater management facilities*;
- G. Natural gas gate stations and limiting stations;
- H. Propane, compressed natural gas and liquefied natural gas storage tanks serving multiple *lots* or *uses* from which fuel is distributed directly to individual users;
- I. Sewer lift stations and wastewater distribution systems; and
- J. Pipes, electrical wires and associated structural supports. [Ord. 08-0293 § 2; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1350).]

18.20.3130

Vector waste.

“Vector waste” means liquid or solid waste material collected from catch basins, retention/detention facilities or drainage pipes. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1352).]

18.20.3140

Vector waste receiving facility.

“Vector waste receiving facility” means a facility where *vector waste* is brought for treatment and storage prior to final disposal. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1353).]

18.20.3150

Variance.

“Variance” means an adjustment in the application of standards of a zoning code to a particular property. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1355).]

18.20.3155

Variety store.

“Variety store” means an establishment engaged in retailing a variety of new general merchandise goods. Variety store does not include department store, but is a subcategory of “*department and variety store*”.

18.20.3160

Vegetation.

“Vegetation” means any and all plant life growing at, below or above the soil surface. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1360).]

18.20.3170**Vocational school.**

“Vocational school” means establishments offering training in a skill or trade to be pursued as a career.

18.20.3190**Warehousing and wholesale trade.**

“Warehousing and wholesale trade” means establishments involved in the storage and/or sale of bulk goods for resale or assembly, excluding establishments offering the sale of bulk goods to the general public which is classified as a *retail land use*.

18.20.3200**Wastewater treatment facility.**

“Wastewater treatment facility” means a plant for collection, decontamination and disposal of sewage, including residential, industrial and agricultural liquid wastes, and including any physical improvement within the scope of the definition of “water pollution control facility” set forth in WAC 173-90-015(4) as amended. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1380).]

18.20.3220**Water-dependent use.**

“Water-dependent use” means a *use* or portion of a *use* that cannot exist in a location that is not adjacent to the water, but is dependent on the water by reason of the intrinsic nature of its operations. A *use* that can be carried out only on, in, or adjacent to water. Examples of water dependent uses include ship cargo terminal loading areas; fishing; ferry and passenger terminals; barge loading, ship building, and dry docking facilities; *marinas*, moorage, and *boat launching* facilities; aquaculture; float plane operations; surface water intake; and sanitary sewer and storm drain outfalls. [Ord. 06-0244 § 12; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1385).]

18.20.3225**Water resource inventory area (WRIA).**

“Water resource inventory area (WRIA)” means one of 62 watersheds in the state of Washington, each composed of the drainage areas of a *stream* or *streams*, as established in Chapter 173-500 WAC as it existed on January 1, 1997. Kenmore is located in WRIA 8, Lake Washington/Cedar/Sammamish River. [Ord. 06-0244 § 51.]

18.20.3227**Weather protection.**

“Weather protection” means awnings, canopies, *arcades* or marquees which are permanently fixed to *buildings* and which cover the public sidewalks to provide protection from the weather for pedestrians. Weather protection should allow light and transparency into *ground floor uses*.

18.20.3240**Wetland edge.**

“Wetland edge” means the line delineating the outer edge of a *wetland*, consistent with the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual in use on January 1, 1995 by the United States Army Corps of Engineers and the United States Environmental Protection Agency as implemented through, and consistent with the May 23, 1994 “Washington Regional Guidance on the 1987 Wetland Delineation Manual” document issued by the Corps of Engineers and the Environmental Protection Agency. When the state of Washington, Department of Ecology, adopts a manual as required pursuant to a new Section 11 of Engrossed Senate Bill 5776, *wetlands* regulated under development regulations shall be delineated pursuant to said manual. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1395).]

18.20.3250**Wetland, forested.**

“Forested wetland” means a *wetland* which is characterized by woody *vegetation* at least 20 feet tall. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1400).]

18.20.3260**Wetland functions.**

“Wetland functions” means natural processes performed by *wetlands* including functions which are important in facilitating food chain production, providing habitat for nesting, rearing and resting sites for aquatic, terrestrial and avian *species*, maintaining the availability and quality of water, acting as recharge and discharge areas for groundwater aquifers and moderating surface and stormwater flows, as well as performing other functions including, but not limited to, those set forth in 33 CFR 320.4(b)(2), 1988. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1405).]

18.20.3280**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. For identifying and delineating a wetland, local government shall use the Washington State Wetland Identification and Delineation Manual (1997). [Ord. 06-0244 § 13; Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1415).]

18.20.3300**Wildlife shelter.**

“Wildlife shelter” means a facility for the temporary housing of sick, wounded or displaced wildlife. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1425).]

18.20.3305**Wind-firm.**

“Wind-firm” means a *tree* which is capable of withstanding windstorms.

18.20.3307**Wireless services.**

“Wireless services” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange services. [Ord. 05-0228 § 4.]

18.20.3310**Work release facility.**

“Work release facility” means a facility which allows the opportunity for convicted persons to be employed outside of the facility, but requires confinement within the facility when not in the place of employment. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1430).]

18.20.3320**Wrecked, dismantled or inoperative vehicle.**

“Wrecked, dismantled or inoperative vehicle” means a motor vehicle or the remains or remnant parts of a motor vehicle which is mechanically inoperative and cannot be made operative without the addition of vital

parts or mechanisms or the application of a substantial amount of labor and is certified by the *department* as meeting at least three of the following requirements:

- A. Is three years old or older;
- B. Is extensively damaged, such damage including but not limited to any of the following: missing wheels, tires, motor, or transmission;
- C. Is apparently inoperable;
- D. Has an approximate fair market value equal only to the approximate value of the scrap in it. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1432).]

18.20.3330

Yard or organic waste processing.

“Yard or organic waste processing” means processing yard and garden wastes, including wood and land-clearing debris, into new products such as soil amendments and wood chips. [Ord. 98-0026 §§ 1, 2 (KCC 21A.06.1435).]

18.20.3340

Zero-lot-line development.

“Zero-lot-line development” means a *development* that sites a *building* so that a wall is on the property boundary. Lot segregations for zero-lot-line development are discussed in KMC 17.20.125.

Chapter 18.21

RESIDENTIAL ZONES

Sections:

- 18.21.020 Residential zones R1, R4 and R6 – Use allowances.
- 18.21.030 Residential zones R1, R4 and R6 – Development standards.
- 18.21.040 Residential zones R12, R18, R24, and R48 – Use allowances.
- 18.21.050 Residential zones R12, R18, R24, and R48 – Development standards.
- 18.21.060 Nonresidential land uses in residential zones.
- 18.21.070 Personal services and retail uses in R-4 through R-48 zones.

18.21.020

Residential zones R1, R4 and R6 – Use allowances.

The following *uses* in Table A are permitted, conditionally permitted, special uses, or *prohibited uses* in residential zones R1, R4 and R6.

Table A. Residential Zones R1, R4 and R6 Use Allowances

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
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EXHIBIT 1

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
Single Detached Dwelling Unit ¹	Single Detached Dwelling Unit ¹	Jail	Community Residential Facility II
Townhouse ²	Townhouse ²	Work Release Facility	Hotel/Motel ⁹
Apartment ³	Apartment ⁴	Hydroelectric Generation Facility	Organization
Designated Manufactured Home ¹	Designated Manufactured Home ¹	Nonhydroelectric Generation Facility	Hotel/Lodging Houses
Mobile Home and Manufactured Home ⁵	Mobile Home Park ⁶	Communication Facility ⁵⁹	Campgrounds
Senior Citizen Assisted Living ⁴	Community Residential Facility I	Earth Station	Destination Resorts
Residential Accessory Uses ⁸	Dormitory ⁷	Oil and Gas Extraction	Recreational Vehicle Park
Home Occupation	Home Industry	Energy Resource Recovery Facility	Adult Entertainment Business
Park ¹²	Bed and Breakfast Guesthouse ¹⁰	Landfill	Theater
Trails	Marina ¹³	Transfer Station	Theater, Drive-in
Golf Course Facility ¹⁵	Sports Club ^{13,14}	Wastewater Treatment Facility	Bowling Center
Amusement and Recreation Services ^{16,17,18}	Amusement and Recreation Services ^{16,17,19}	Municipal Water Production	Shooting Range
Library ²⁰	Library	Airport/Heliport	Amusement Arcades
Museum ²⁰	Museum	Transit Bus Base	Amusement Park
Arboretum	Conference Center	School Bus Base	Outdoor Performance Center
Conference Center ²⁰	General Personal Service ²¹	Racetrack ⁶²	Drycleaning Plants
Cemetery, Columbarium or Mausoleum ²³	Funeral Home/Crematory ²²	Zoo/Wildlife Exhibit ⁶³	Industrial Launderers
Family Child-Care Home ²⁵	Cemetery, Columbarium or Mausoleum ²⁴	College/University ⁶⁴	Veterinary Clinic
Day Care I ²⁶	Day Care I		Automotive Repair
Day Care II ²⁶	Day Care II		Automotive Service
Church, Synagogue, Mosque, Temple ²⁷	Church, Synagogue, Mosque, Temple		Miscellaneous Repair
Social Services ^{27,28}	Social Services ^{28,29}		Kennel or Cattery
Stable ³⁰	Stable		Theatrical Production Services
Artist Studios ³¹	Medical/Dental Office/Outpatient Clinic ²⁹		Nursing and Personal Care Facilities
Interim Recycling Facility ³²	Office/Outpatient Clinic ²⁹		Medical/Dental Lab
Medical/Dental Office/Outpatient Clinic ²⁷	Hospital ²⁹		Miscellaneous Health Services
Elementary School	Secondary or High School ³³		Public Agency Archives
Middle/Junior High School	Vocational School		Court
Secondary or High School	Specialized Instruction School ³⁵		Construction and Trade
	School District Support Facility		Individual Transportation and Taxi
	Public Agency or Utility Office		Trucking and Courier Service
			Warehousing and Wholesale Trade ⁴⁶
			Self-Service Storage

EXHIBIT 1

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
³³ <i>Vocational School</i> ²⁹ <i>Specialized Instruction School</i> ³⁴ <i>School District Support Facility</i> ³⁶ <i>Public Agency or Utility Office</i> ³⁷ <i>Public Agency or Utility Yard</i> ³⁸ <i>Police Facility</i> ³⁹ <i>Utility Facility</i> ⁴¹ <i>Commuter Parking Lot</i> ⁴³ <i>Private Stormwater Management Facility</i> ⁴⁴ <i>Vector Waste Receiving Facility</i> ⁴⁵ <i>Automotive Parking</i> ⁴³ <i>Agricultural Product Sales</i> ⁵⁰ <i>Livestock Sales</i> ^{53,54} <i>Growing and Harvesting Crops</i> <i>Raising Livestock and Small Animals</i> ⁵⁵ <i>Growing and Harvesting Forest Products</i> <i>School Bus Base</i> ⁶¹ <i>College/University</i> ^{64,65}	<i>Fire Facility</i> ⁴⁰ <i>Utility Facility</i> ⁴² <i>Commuter Parking Lot</i> <i>Helistop</i> ⁴⁷ <i>Department and Variety Stores</i> ⁴⁸ <i>Food Stores</i> ⁴⁹ <i>Eating and Drinking Places</i> ^{51,52} <i>Drug Stores</i> ⁴⁹ <i>Book, Stationery, Video & Art Supply Stores</i> ⁴⁹ <i>Florist Shops</i> ⁴⁹ <i>Hatchery/Fish Preserve</i> ⁵⁶ <i>Aquaculture</i> ⁵⁶ <i>Hydroelectric Generation Facility</i> ⁵⁷ <i>Nonhydroelectric Generation Facility</i> ⁵⁸ <i>Communication Facility</i> ^{59,60c} <i>Earth Station</i> ^{60a} <i>School Bus Base</i> <i>College/University</i> ^{64,66}		<i>Farm Product</i> <i>Warehousing, Refrigeration and Storage</i> <i>Log Storage</i> <i>Transportation Service</i> <i>Freight and Cargo Service</i> <i>Passenger Transportation Service</i> <i>Communication Offices</i> <i>Telegraph and Other Communications</i> <i>General Business Service</i> <i>Professional Office</i> <i>Outdoor Advertising Service</i> <i>Miscellaneous Equipment Rental</i> <i>Automotive Rental and Leasing</i> <i>Professional Sports Teams/Promoters</i> <i>Research, Development and Testing</i> <i>Heavy Equipment and Truck Repair</i> <i>Commercial/Industrial Accessory Uses</i> <i>Building, Hardware and Garden Materials Stores</i> <i>Forest Products Sales</i> <i>Motor Vehicle and Boat Dealers</i> <i>Auto Supply Stores</i> <i>Gasoline Service Stations</i> <i>Apparel and Accessory Stores</i> <i>Furniture and Home Furnishings Stores</i> <i>Liquor Stores</i> <i>Used Goods:</i> <i>Antiques/Secondhand Shops</i>

EXHIBIT 1

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
			<i>Sporting Goods and Related Stores</i> <i>Jewelry Stores</i> Monuments, Tombstones and Gravestones Sales <i>Hobby, Toy, Game Shops</i> <i>Photographic and Electronic Shops</i> <i>Fabric Shops</i> Fuel Dealers <i>Personal Medical Supply Stores</i> <i>Pet Shops</i> <i>Bulk Retail</i> <i>Auction Houses</i> <i>Manufacturing Land Uses</i> <i>Forest Research</i> <i>Wildlife Shelters</i> Mineral Extraction and Processing Asphalt/Concrete Mixtures and Block Manufacture <i>Resource Accessory Uses</i> <i>Jail Farm/Camp</i> <i>Public Agency Animal Control Facility</i> <i>Public Agency Training Facility</i> <i>Soil Recycling Facility</i> <i>Fairground</i> Stadium/Arena <i>Secure Community Transition Facilities</i>

¹Conditional use permit required before approving more than one dwelling on individual *lots*, except on *lots* in subdivisions, short subdivisions or binding site plans approved for multiple unit *lots*, and except as provided for *accessory dwelling units* in subsection 8 of this section.

²A conditional use permit is not required for *townhouse* units on *lots* in a subdivision or short subdivision designed for *townhouse* units.

³Only subject to the residential density incentive provisions of Chapter 18.80 KMC.

⁴Only in a *building* listed on the National Register as an historic site or designated as a King County landmark subject to the provisions of Chapter 2.20 KMC.

⁵*Manufactured homes* and *mobile homes* are only allowed in *mobile home parks*.

⁶*Mobile home parks* shall not be permitted in the R-1 zones.

⁷Only as an accessory to a school, college, university or church.

⁸a. See 18.73.100 KMC regarding *accessory dwelling units*.

b. One single or twin engine, noncommercial aircraft shall be permitted only on *lots* that abut, or have a legal access that is not a *city* right-of-way, to a waterbody or landing field, provided there is:

(1) No aircraft sales, service, repair, charter or rental; and

(2) No storage of aviation fuel except that contained in the tank or tanks of the aircraft.

⁹Except *bed and breakfast guesthouses*.

¹⁰*Bed and breakfast guesthouses* shall be authorized after issuance of a *conditional use permit*, subject to the following conditions:

a. The guesthouse shall be owner-occupied;

b. Meals shall be served to paying guests only (no restaurant *use* permitted);

c. The number of guestrooms shall not be greater than that authorized by the International Building and Fire Codes;

d. Parking shall be provided as required by this title; and

e. The guesthouse shall be compatible with the neighborhood character as determined by the *city manager*, and shall not create significant adverse neighborhood effects that cannot be mitigated.

¹¹Reserved.

¹²The following conditions and limitations shall apply, where appropriate:

a. No stadiums on *sites* less than 10 acres;

b. Lighting for *structures* and fields shall be directed away from residential areas;

c. *Structures* or service yards shall maintain a minimum distance of 50 feet from property lines adjoining residential zones, except for *structures* in on-site recreation areas required in KMC 18.30.120 and 18.30.130. *Setback* requirements for *structures* in these on-site required recreation areas shall be maintained in accordance with the zoning standards for the underlying residential zone;

d. Overnight camping is allowed only in an approved *campground*.

¹³Limited to recreation facilities subject to the following conditions and limitations:

a. The bulk and scale shall be compatible with residential character of the area;

b. For *sports clubs*, the gross floor area shall not exceed 10,000 square feet unless the *building* is on the same *site* or adjacent to a *site* where a public facility is located or unless the *building* is a nonprofit facility; and

c. Use is limited to residents of a specified residential *development* or to *sports clubs* providing supervised instructional or athletic programs.

¹⁴Only for stand-alone *sports clubs* that are not part of a *park*.

¹⁵Clubhouses, maintenance buildings, equipment storage areas and driving range tees shall be at least 50 feet from residential property lines. Lighting for practice greens and driving range ball impact areas shall be directed away from adjoining residential zones. Applications shall comply with adopted *best management practices* for golf course *development*.

¹⁶Excluding amusement and recreational *uses* classified elsewhere in this chapter.

¹⁷*Social card games*, as defined by this title, are prohibited.

¹⁸Limited to a golf driving range as an accessory to golf courses.

¹⁹Limited to golf driving ranges and subject to subsection 15 of this section.

²⁰Only as accessory to a *park* or in a *building* listed on the National Register as an historic site or designated as a *city* landmark subject to Chapter 18.50 KMC.

²¹ Not permitted in R-1 and limited to a maximum of 5,000 square feet per establishment and subject to the additional requirements in KMC 18.21.070.

²² Only as an accessory to a cemetery.

²³ Limited to columbariums accessory to a church, but required *landscaping* and parking shall not be reduced.

²⁴ *Structures* shall maintain a minimum distance of 100 feet from property lines adjoining residential zones.

²⁵ A *family child-care home* is subject to the requirements established by the Washington State Department of Early Learning (DEL) in WAC Title 170. The *family child-care home* shall meet the following requirements:

- a. The family child-care provider shall be licensed by DEL to operate a *family child-care home*;
 - b. A safe passenger loading area as certified by the DEL licensor shall be provided;
 - c. The *family child-care home* shall comply with all applicable building, fire, safety, and health codes enforced by the city;
 - d. The *family child-care home* shall comply with all applicable development standards of the city, unless determined to be legally nonconforming;
 - e. All signage shall conform to the applicable requirements of KMC Chapter 18.42;
 - f. The city has the authority to limit the hours of operation to facilitate neighborhood compatibility;
- and

g. Prior to receiving State licensing, the family child-care provider shall provide the city with proof of written notification informing immediately adjoining property owners of the intent to locate and maintain the *family child-care home*. The notification shall inform the notified parties that comments may be submitted to the DEL and provide contact information for submitting such comments to the DEL. The proof of notification shall be in the form of a written affidavit containing (1) the date and means of notification; (2) a copy of the notification; and (3) a list of the parties to whom the notification was distributed.

²⁶ Only as a re-use of a public school facility subject to Chapter 18.50 KMC, or an *accessory use* to a school, church, *park*, *sport club* or public housing administered by a *public agency*, and:

- a. Outdoor play areas shall be completely enclosed by a solid wall or *fence*, with no openings except for gates and have a minimum height of six feet;
- b. Outdoor play equipment shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;
- c. Direct access to a developed arterial *street* shall be required in any residential zone; and
- d. Hours of operation may be restricted to assure compatibility with surrounding *development*.

²⁷ Only as a re-use of a public school facility subject to Chapter 18.50 KMC.

²⁸ Except day care services, and residential care.

²⁹ Only as a re-use of a surplus nonresidential facility subject to Chapter 18.50 KMC.

³⁰ Covered riding arenas are subject to KMC 18.70.030 and shall not exceed 20,000 square feet, but stabling areas, whether attached or detached, shall not be counted in this calculation.

³¹ Only as a re-use of a surplus nonresidential facility subject to Chapter 18.50 KMC or as a joint use of an existing public school facility.

³² Limited to *drop box facilities* accessory to a public or community use such as a school, fire station or community center.

³³ Renovation, expansion, modernization, or reconstruction of a school, or the addition of *relocatable facilities*, is permitted.

³⁴ Only as an accessory to residential use, and:

- a. Students shall be limited to 12 per one-hour session;
- b. All instruction must be within an enclosed *structure*; and
- c. *Structures* used for the school shall maintain a distance of 25 feet from property lines adjoining residential zones.

³⁵ Subject to the following:

- a. *Structures* used for the school and *accessory uses* shall maintain a minimum distance of 25 feet from property lines adjoining residential zones;
- b. On *lots* over two and one-half acres:

(1) *Retail sales* of items related to the instructional courses is permitted, if total floor area for *retail sales* is limited to 2,000 square feet;

(2) Sales of food prepared in the instructional courses is permitted with Seattle/King County public health and *city* approval, if total floor area for food sales is limited to 1,000 square feet and is located in the same *structure* as the school; and

(3) Other incidental student-supporting *uses* are allowed, if such *uses* are found to be both compatible with and incidental to the principal *use*; and

c. On *sites* over 10 acres zoned R-1, and/or R-4:

(1) *Retail sales* of items related to the instructional courses is permitted, provided total floor area for *retail sales* is limited to 2,000 square feet;

(2) Sales of food prepared in the instructional courses is permitted with Seattle/King County public health and *city* approval, if total floor area for food sales is limited to 1,750 square feet and is located in the same *structure* as the school;

(3) Other incidental student-supporting *uses* are allowed, if the *uses* are found to be functionally related, subordinate, compatible with and incidental to the principal *use*;

(4) The *use* shall be integrated with allowable agricultural *uses* on the *site*;

(5) Advertised special events shall comply with the temporary use requirements of this title; and

(6) Existing *structures* that are damaged or destroyed by fire or natural event, if damaged by more than 50 percent of their prior value, may reconstruct and expand an additional 65 percent of the original floor area but need not be approved as a conditional use if their *use* otherwise complies with the development condition in this subsection 35.c and this title.

³⁶ Only if adjacent to an existing or proposed school.

³⁷ a. Only as a re-use of a public school facility or a surplus nonresidential facility subject to the provisions of Chapter 18.50 KMC; or

b. Only when accessory to a fire facility and the office is no greater than 1,500 square feet of floor area.

³⁸ a. Utility yards only on *sites* with utility district offices; or

b. *Public agency* yards are limited to material storage for road maintenance facilities.

³⁹ Limited to “storefront” police offices. Such offices shall not have:

a. Holding cells,

b. Suspect interview rooms, or

c. Long-term storage of stolen properties.

⁴⁰ a. All *buildings* and *structures* shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;

b. Any *buildings* from which fire-fighting equipment emerges onto a *street* shall maintain a distance of 35 feet from such *street*;

c. No *outdoor storage*; and

⁴¹ Excluding *bulk gas storage tanks*.

⁴² Limited to *bulk gas storage tanks* which pipe to individual residences but excluding liquefied natural gas storage tanks.

⁴³ Limited to commuter parking facilities for users of transit, carpools or ride-share programs, provided:

a. They are located on existing parking lots for churches, schools, or other permitted nonresidential *uses* which have excess capacity available during commuting hours; and

b. The *site* is adjacent to a designated arterial that has been improved to a standard acceptable to the *department*.

⁴⁴ Except when participating in an approved shared facility drainage plan; such facilities shall be located on the same *lot* that they are designed to serve except in subdivisions or short subdivisions that set aside a separate tract for such facilities. For shared facilities, such facilities which are not located on the *lot* they are designed to serve shall be located on a *lot* with the same or more intensive zoning designation.

⁴⁵ Only as an *accessory use* to a *public agency* or *utility yard*, or to a *transfer station*.

⁴⁶ Except *self-service storage*.

⁴⁷ Limited to *emergency* medical evacuation sites in conjunction with police, fire or health service facility.

⁴⁸ Not in R-1 and limited to *variety stores*, with a maximum of 5,000 square feet of gross floor area, and subject to KMC 18.21.070.

⁴⁹ Not permitted in R-1 and limited to a maximum of 5,000 square feet of gross floor area and subject to KMC 18.21.070.

⁵⁰ a. Limited to products produced on site.

b. Covered sales areas shall not exceed a total area of 500 square feet.

⁵¹ Not permitted in R-1 and excluding drinking places, and limited to a maximum of 5,000 square feet of gross floor area and subject to KMC 18.21.070.

⁵² *Social card games*, as defined by this title, are prohibited.

⁵³ Retail sale of *livestock* is permitted only as accessory to raising *livestock*.

⁵⁴ Limited to the R-1 zone.

⁵⁵ *Large livestock* allowed in accordance with Chapter 18.70 KMC.

⁵⁶ May be further subject to KMC Title 16, Shoreline Management.

⁵⁷ Limited to facilities that comply with the following:

a. Any new diversion *structure* shall not:

(1) Exceed a height of eight feet as measured from the streambed; or

(2) Impound more than three surface acres of water at the normal maximum surface level;

b. There shall be no active storage;

c. The maximum water surface area at any existing dam or diversion shall not be increased;

d. An exceedance flow of no greater than 50 percent in mainstream reach shall be maintained;

e. Any transmission line shall be limited to a:

(1) Right-of-way of five miles or less; and

(2) Capacity of 230 KV or less;

f. Any new, permanent access road shall be limited to five miles or less; and

g. The facility shall only be located above any portion of the *stream* used by *anadromous fish*.

⁵⁸ Limited to *cogeneration* facilities for on-site use only.

⁵⁹ The provisions apply only to *major communication facilities*. *Minor communication facilities* shall be reviewed in accordance with the processes and standards outlined in Chapter 18.60 KMC.

⁶⁰ a. Limited to no more than three satellite dish *antennas*.

b. Limited to one satellite dish *antenna*.

c. Limited to tower *consolidations*.

⁶¹ Only in conjunction with an existing or proposed school.

⁶² Except racing of motorized vehicles.

⁶³ Except arboretum.

⁶⁴ Except technical institutions. See *vocational schools*.

⁶⁵ Only as a re-use of a public school facility subject to Chapter 18.50 KMC.

⁶⁶ Only as a re-use of a surplus nonresidential facility subject to Chapter 18.50 KMC.

18.21.030

Residential zones R1, R4 and R6 – Development standards.

The following zone-specific development standards in Table B apply in the R1, R4 and R6 residential zones:

Table B. R1, R4 and R6 Residential Zones Development Standards

STANDARDS	Z O N E S	R-1 ¹	R-4	R-6

STANDARDS	Z O N E S	R-1 ¹	R-4	R-6
Base Density: <i>Dwelling Unit/Acre</i> ²		1 du/ac	4 du/ac ³	6 du/ac
Maximum Density: <i>Dwelling Unit/Acre</i> ⁴			6 du/ac	9 du/ac
Minimum Density				
Minimum Lot Width ⁶		35 ft ⁷	30 ft	30 ft
Minimum <i>Street Setback</i>		20 ft ⁷	15 ft ^{8,9}	15 ft ^{8,9}
Minimum <i>Side Setback</i> ^{5,10}		5 ft ⁷	15 ft Total ¹¹	15 ft Total ¹¹
Minimum <i>Rear Setback</i> ^{5,10}		5 ft ⁷	20 ft	20 ft
Base Height ¹²		35 ft	35 ft	35 ft 45 ft ¹³
Maximum <i>Impervious Surface</i> : Percentage ¹⁴		30% ¹⁵	55%	70%
Minimum Lot Size		2,500 sq ft	7,200 sq ft ^{16,17}	5,400 sq ft ^{16,17}

¹ a. All subdivisions and short subdivisions in the R-1 zone shall be required to be *clustered* when the property is located within or contains:

- (1) A *floodplain*;
- (2) A regionally or locally significant resource area;
- (3) Existing or planned public *parks* or *trails*, or connections to such facilities;
- (4) A Class I or II *stream* or *wetland*;
- (5) A “greenbelt/urban separator” or “wildlife corridor” area designated by the comprehensive plan.

b. The *development* shall be *clustered* away from *critical areas* or corridors such as urban separators or the wildlife habitat network to the extent possible and the *open space* shall be placed in a separate tract that includes at least 50 percent of the *site*. *Open space* tracts shall be permanent and meet the provisions of KMC 17.20.130.

² Density applies only to *dwelling units* and not to sleeping units.

³ *Mobile home parks* shall be allowed a base density of six *dwelling units* per acre.

⁴ This maximum density may be achieved only through the application of residential density incentives pursuant to Chapter 18.80 KMC or *transfers of density credits*, or any combination of density incentive or density transfer. Maximum density may only be exceeded pursuant to KMC 18.80.040(F)(1)(f).

⁵ These standards may be modified under the provisions for *zero-lot-line developments*.

⁶ The *building envelope* is determined through meeting minimum lot size and minimum lot width measurement requirements (KMC 18.30.110).

⁷ The standards of the R-4 zone shall apply if a *lot* is less than 15,000 square feet in area.

⁸ If *development* provides *alleys* or consists of *townhouses*, then the *street setback* may equal 10 feet.

⁹ At least 20 linear feet of driveway shall be provided between any garage, carport or other fenced parking area and the *street* property line. The linear distance shall be measured along the centerline of the driveway from the access point to such garage, carport or fenced area to the *street* property line.

¹⁰ Vehicle access points from garages, carports or fenced parking areas shall be set back from the property line on which a *joint use driveway* is located to provide a straight line length of at least 26 feet as measured from the centerline of the garage, carport or fenced parking area, from the access point to the opposite side of the *joint use driveway*.

¹¹ Any side yard shall equal a minimum of five feet but the two side yards combined must equal a minimum of 15 feet.

¹² Height limits may be increased when portions of the *structure* which exceed the base height limit provide one additional foot of *street* and interior *setback* for each foot above the base height limit, provided the maximum height may not exceed 75 feet. Netting or fencing and support *structures* for the netting or fencing used to contain golf balls in the operation of golf courses or golf driving ranges are exempt from the additional interior *setback* requirements; provided, that the maximum height shall not exceed 75 feet.

¹³ The base height to be used only for projects as follows:

a. In R-6 zones, a *building* with a footprint built on slopes exceeding a 15 percent finished grade.

¹⁴ Applies to each individual *lot*. *Impervious surface* area standards for:

a. Regional *uses* shall be established at the time of permit review;

b. Nonresidential *uses* in residential zones shall comply with KMC 18.30.170 and 18.21.060;

c. Individual *lots* in the R-4 through R-6 zones which are less than 9,076 square feet in area shall be subject to the applicable provisions of the nearest comparable R-6 zone;

d. *Lots* may be increased beyond the total amount permitted in this chapter subject to approval of a *conditional use permit*.

¹⁵ *Lots* smaller than one-half acre in area shall comply with standards of the nearest comparable R-4 through R-6 zone. For *lots* that are one-half acre in area or larger, the maximum *impervious surface* area allowed shall be at least 10,000 square feet. On any *lot* over one acre in area, an additional five percent of the lot area may be used for *buildings* related to agricultural or forestry practices. For *lots* smaller than two acres but larger than one-half acre, an additional 10 percent of the lot area may be used for *structures* which are determined to be medically necessary, provided the *applicant* submits with the permit application a notarized affidavit, conforming with the requirements of KMC 18.100.170(A)(2).

¹⁶ For properties with *critical areas* or topographic constraints, up to 20 percent of the number of *lots* in a subdivision or a short subdivision of more than four *lots*, and one of the *lots* in a short plat of four *lots* or less, may contain an area less than the prescribed minimum for this zoning district. In no case shall any *lots* be created which contain an area more than 10 percent less than the prescribed minimum for this zoning district. These smaller *lots* shall be located so as to have the least impact on surrounding properties in terms of consistency of *street frontages* and privacy of abutting properties.

¹⁷ This excludes any area required for public or *private streets*, access easements, access tracts, and access panhandles.

18.21.040

Residential zones R12, R18, R24, and R48 – Use allowances.

The following *uses* in Table C are permitted, conditionally permitted, special uses, or *prohibited uses* in residential zones R12, R18, R24, and R48.

Table C. Residential Zones R12, R18, R24, and R48 Use Allowances

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
Single Detached Dwelling Unit ¹	Single Detached Dwelling Unit ¹	Jail	Home Industry
Townhouse	Designated Manufactured Home ¹	Work Release Facility	Hotel/Motel ⁴
Apartment	Bed and Breakfast	Nonhydroelectric Generation Facility	Organization Hotel/Lodging Houses
Designated Manufactured Home ¹	Guesthouse ⁵	Communication Facility ⁴⁹	Campgrounds
Mobile Home and Manufactured Home ²	Marina ⁸	Earth Station	Destination Resorts
Mobile Home Park	Sports Club ^{8,9}	Oil and Gas Extraction	Recreational Vehicle Park
Community Residential Facility I	Amusement and Recreation Services ^{11,12,13,14}	Energy Resource Recovery Facility	Adult Entertainment Business
Community Residential Facility II	Library	Landfill	Theater
Dormitory	Museum	Transfer Station	Theater, Drive-in
Senior Citizen Assisted Living	Conference Center	Wastewater Treatment Facility	Bowling Center
Residential Accessory Uses ³	General Personal Service ¹⁶	Municipal Water Production	Shooting Range
Home Occupation	Funeral Home/Crematory ¹⁷	Airport/Heliport	Amusement Arcades
Park ⁷	Cemetery, Columbarium or Mausoleum ¹⁹	School Bus Base	Amusement Park
Trails	Day Care II	Racetrack ⁵²	Outdoor Performance Center
Golf Course Facility ¹⁰	Church, Synagogue, Mosque, Temple	Zoo/Wildlife Exhibit ⁵³	Drycleaning Plants
Amusement and Recreation Services ^{11,12,13}	Social Services ^{22,23}	College/University ⁵⁴	Industrial Launderers
Library ¹⁵	Medical/Dental		Veterinary Clinic
Museum ¹⁵	Office/Outpatient Clinic ²³		Automotive Repair
Arboretum	Nursing and Personal Care Facilities		Automotive Service
Conference Center ¹⁵	Hospital ²³		Miscellaneous Repair
Cemetery, Columbarium or Mausoleum ¹⁸	Secondary or High School ²⁶		Stable
Family Child-Care Home ⁵⁷	Vocational School		Kennel or Cattery
Day Care I	Specialized Instruction School ²⁸		Theatrical Production Services
Day Care II ²⁰	School District Support Facility		Medical/Dental Lab
Church, Synagogue, Mosque, Temple ²¹	Public Agency or Utility Office		Miscellaneous Health Services
Social Services ^{21,22}	Fire Facility ³³		Public Agency Archives
Artist Studios ²⁴	Utility Facility ³⁵		Court
	Commuter Parking Lot		Individual Transportation and Taxi
	Self-Service Storage ⁴¹		Trucking and Courier Service
	Helistop ⁴³		Warehousing and Wholesale Trade ⁴⁰
	Department and Variety Stores ⁴⁴		Farm Product Warehousing, Refrigeration and Storage
	Food Stores ⁴⁵		

EXHIBIT 1

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
<i>Interim Recycling Facility</i> ²⁵ <i>Medical/Dental Office/Outpatient Clinic</i> ²¹ <i>Elementary School</i> <i>Middle/Junior High School</i> <i>Secondary or High School</i> ²⁶ <i>Vocational School</i> ²³ <i>Specialized Instruction School</i> ²⁷ <i>School District Support Facility</i> ²⁹ <i>Public Agency or Utility Office</i> ³⁰ <i>Public Agency or Utility Yard</i> ³¹ <i>Police Facility</i> ³² <i>Utility Facility</i> ³⁴ <i>Commuter Parking Lot</i> ³⁶ <i>Private Stormwater Management Facility</i> ³⁷ <i>Vector Waste Receiving Facility</i> ³⁸ <i>Construction and Trade</i> ³⁹ <i>Professional Office</i> ⁴² <i>Automotive Parking</i> ³⁶ <i>College/University</i> ^{54,55}	Eating and Drinking Places ^{46,47} <i>Drug Stores</i> ⁴⁵ <i>Book, Stationery, Video & Art Supply Stores</i> ⁴⁵ <i>Florist Shops</i> ⁴⁵ <i>Nonhydroelectric Generation Facility</i> ⁴⁸ <i>Communication Facility</i> ^{49,50c} <i>Earth Station</i> ^{50a} <i>School Bus Base</i> ⁵¹ <i>College/University</i> ^{54,56}		<i>Log Storage</i> Transportation Service Freight and Cargo Service Passenger Transportation Service Communication Offices Telegraph and Other Communications <i>General Business Service</i> Outdoor Advertising Service Miscellaneous Equipment Rental Automotive Rental and Leasing Professional Sports Teams/Promoters Research, Development and Testing <i>Heavy Equipment and Truck Repair</i> <i>Commercial/Industrial Accessory Uses</i> <i>Building, Hardware and Garden Materials Stores</i> <i>Forest Product Sales</i> <i>Agricultural Product Sales</i> <i>Motor Vehicle and Boat Dealers</i> Auto Supply Stores Gasoline Service Stations Apparel and Accessory Stores <i>Furniture and Home Furnishings Stores</i> Liquor Stores Used Goods: Antiques/Secondhand Shops <i>Sporting Goods</i> and Related Stores <i>Jewelry Stores</i> Monuments, Tombstones and Gravestones Sales

EXHIBIT 1

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
			<i>Hobby, Toy, Game Shops</i> <i>Photographic and Electronic Shops</i> <i>Fabric Shops</i> <i>Fuel Dealers</i> <i>Personal Medical Supply Stores</i> <i>Pet Shops</i> <i>Bulk Retail</i> <i>Auction Houses</i> <i>Livestock Sales</i> <i>Manufacturing Land Uses</i> <i>Resource Land Uses</i> <i>Jail Farm/Camp</i> <i>Public Agency Animal Control Facility</i> <i>Public Agency Training Facility</i> <i>Hydroelectric Generation Facility</i> <i>Soil Recycling Facility</i> <i>Fairground</i> <i>Stadium/Arena</i> <i>Secure Community Transition Facilities</i>

- ¹ *Conditional use permit* required before approving more than one dwelling on individual lots, except on lots in subdivisions, short subdivisions or binding site plans approved for multiple unit lots, and except as provided for *accessory dwelling units* in subsection 3 of this section.

² *Manufactured homes* and *mobile homes* are only allowed in *mobile home parks*.

³a. See 18.73.100 KMC regarding *accessory dwelling units*.

b. One single or twin engine, noncommercial aircraft shall be permitted only on lots that abut, or have a legal access that is not a city right-of-way, to a waterbody or landing field, provided there is:

(1) No aircraft sales, service, repair, charter or rental; and

(2) No storage of aviation fuel except that contained in the tank or tanks of the aircraft.

⁴ Except *bed and breakfast guesthouses*.

⁵ *Bed and breakfast guesthouses* shall be authorized after issuance of a *conditional use permit*, subject to the following conditions:

- a. The guesthouse shall be owner-occupied;
- b. Meals shall be served to paying guests only (no restaurant use permitted);
- c. The number of guestrooms shall not be greater than that authorized by the International Building and Fire Codes;
- d. Parking shall be provided as required by this title; and
- e. The guesthouse shall be compatible with the neighborhood character as determined by the *city manager*, and shall not create significant adverse neighborhood effects that cannot be mitigated.

⁶ Reserved.

⁷ The following conditions and limitations shall apply, where appropriate:

- a. No stadiums on *sites* less than 10 acres;
- b. Lighting for *structures* and fields shall be directed away from residential areas;
- c. *Structures* or service yards shall maintain a minimum distance of 50 feet from property lines adjoining residential zones, except for *structures* in on-site recreation areas required in KMC 18.30.120 and 18.30.130. *Setback* requirements for *structures* in these on-site required recreation areas shall be maintained in accordance with the zoning standards for the underlying residential zone;

d. Overnight camping is allowed only in an approved *campground*.

⁸ Limited to recreation facilities subject to the following conditions and limitations:

- a. The bulk and scale shall be compatible with residential character of the area;
- b. For *sports clubs*, the gross floor area shall not exceed 10,000 square feet unless the *building* is on the same *site* or adjacent to a *site* where a public facility is located or unless the *building* is a nonprofit facility ; and

c. Use is limited to residents of a specified residential *development* or to *sports clubs* providing supervised instructional or athletic programs.

⁹ Only for stand-alone *sports clubs* that are not part of a *park*.

¹⁰ Clubhouses, maintenance buildings, equipment storage areas and driving range tees shall be at least 50 feet from residential property lines. Lighting for practice greens and driving range ball impact areas shall be directed away from adjoining residential zones. Applications shall comply with adopted *best management practices* for golf course *development*.

¹¹ Excluding amusement and recreational *uses* classified elsewhere in this chapter.

¹² *Social card games*, as defined by this title, are prohibited.

¹³ Limited to a golf driving range as an accessory to golf courses.

¹⁴ Limited to golf driving ranges and subject to subsection 10 of this section.

¹⁵ Only as accessory to a *park* or in a *building* listed on the National Register as an historic site or designated as a *city* landmark subject to Chapter 18.50 KMC.

¹⁶ Not permitted in R-1 and limited to a maximum of 5,000 square feet per establishment and subject to the additional requirements in KMC 18.21.070.

¹⁷ Only as an accessory to a cemetery.

¹⁸ Limited to columbariums accessory to a church, but required *landscaping* and parking shall not be reduced.

¹⁹ *Structures* shall maintain a minimum distance of 100 feet from property lines adjoining residential zones.

²⁰ Only as a re-use of a public school facility subject to Chapter 18.50 KMC, or an *accessory use* to a school, church, *park*, *sport club* or public housing administered by a *public agency*, and:

a. Outdoor play areas shall be completely enclosed by a solid wall or *fence*, with no openings except for gates and have a minimum height of six feet;

b. Outdoor play equipment shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;

c. Direct access to a developed arterial *street* shall be required in any residential zone; and

d. Hours of operation may be restricted to assure compatibility with surrounding *development*.

²¹ Only as a re-use of a public school facility subject to Chapter 18.50 KMC.

²² Except day care services; and residential care.

²³ Only as a re-use of a surplus nonresidential facility subject to Chapter 18.50 KMC.

²⁴ Only as a re-use of a surplus nonresidential facility subject to Chapter 18.50 KMC or as a joint use of an existing public school facility.

²⁵ Limited to *drop box facilities* accessory to a public or community use such as a school, fire station or community center.

²⁶ Renovation, expansion, modernization, or reconstruction of a school, or the addition of *relocatable facilities*, is permitted.

²⁷ Only as an accessory to residential use, and:

a. Students shall be limited to 12 per one-hour session;

b. All instruction must be within an enclosed *structure*; and

c. *Structures* used for the school shall maintain a distance of 25 feet from property lines adjoining residential zones.

²⁸ Subject to the following:

a. *Structures* used for the school and *accessory uses* shall maintain a minimum distance of 25 feet from property lines adjoining residential zones;

b. On *lots* over two and one-half acres:

(1) *Retail sales* of items related to the instructional courses is permitted, if total floor area for *retail sales* is limited to 2,000 square feet;

(2) Sales of food prepared in the instructional courses is permitted with Seattle/King County public health and *city* approval, if total floor area for food sales is limited to 1,000 square feet and is located in the same *structure* as the school; and

(3) Other incidental student-supporting *uses* are allowed, if such *uses* are found to be both compatible with and incidental to the principal *use*; and

c. On *sites* over 10 acres, zoned R-1, and/or R-4:

(1) *Retail sales* of items related to the instructional courses is permitted, provided total floor area for *retail sales* is limited to 2,000 square feet;

(2) Sales of food prepared in the instructional courses is permitted with Seattle/King County public health and *city* approval, if total floor area for food sales is limited to 1,750 square feet and is located in the same *structure* as the school;

(3) Other incidental student-supporting *uses* are allowed, if the *uses* are found to be functionally related, subordinate, compatible with and incidental to the principal *use*;

(4) The *use* shall be integrated with allowable agricultural *uses* on the *site*;

(5) Advertised special events shall comply with the temporary use requirements of this title; and

(6) Existing *structures* that are damaged or destroyed by fire or natural event, if damaged by more than 50 percent of their prior value, may reconstruct and expand an additional 65 percent of the original floor area but need not be approved as a conditional use if their *use* otherwise complies with the development condition in this subsection 28.c and this title.

²⁹ Only if adjacent to an existing or proposed school.

³⁰a. Only as a re-use of a public school facility or a surplus nonresidential facility subject to the provisions of Chapter 18.50 KMC; or

b. Only when accessory to a fire facility and the office is no greater than 1,500 square feet of floor area.

³¹a. Utility yards only on *sites* with utility district offices; or

b. *Public agency* yards are limited to material storage for road maintenance facilities.

³² Limited to "storefront" police offices. Such offices shall not have:

a. Holding cells,

b. Suspect interview rooms, or

c. Long-term storage of stolen properties.

³³a. All *buildings* and *structures* shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;

b. Any *buildings* from which fire-fighting equipment emerges onto a *street* shall maintain a distance of 35 feet from such *street*;

c. No *outdoor storage*; and

³⁴ Excluding *bulk gas storage tanks*.

³⁵ Limited to *bulk gas storage tanks* which pipe to individual residences but excluding liquefied natural gas storage tanks.

³⁶ Limited to commuter parking facilities for users of transit, carpools or ride-share programs, provided:

a. They are located on existing parking lots for churches, schools, or other permitted nonresidential uses which have excess capacity available during commuting hours; and

b. The *site* is adjacent to a designated arterial that has been improved to a standard acceptable to the department.

³⁷ Except when participating in an approved shared facility drainage plan; such facilities shall be located on the same *lot* that they are designed to serve except in subdivisions or short subdivisions that set aside a separate tract for such facilities. For shared facilities, such facilities which are not located on the *lot* they are designed to serve shall be located on a *lot* with the same or more intensive zoning designation.

³⁸ Only as an *accessory use* to a *public agency or utility yard*, or to a *transfer station*.

³⁹ Permitted when:

a. Located in the R-24 zone; and

b. On a *site* in *professional office or construction and trade office uses* as of May 8, 2003; and

c. Part of a *mixed use development*; and

d. Limited to 15,000 square feet; and

e. No *outdoor storage* of equipment occurs.

⁴⁰ Except *self-service storage*.

⁴¹ Accessory to an *apartment development* of at least 12 units provided:

a. The gross floor area in *self-service storage* shall not exceed the total gross floor area of the *apartment dwellings* on the *site*;

b. All outdoor lights shall be deflected, shaded and focused away from all adjoining property;

c. The use of the facility shall be limited to dead storage of household goods;

d. No servicing or repair of motor vehicles, boats, trailers, lawn mowers or similar equipment;

e. No *outdoor storage* or storage of flammable liquids, highly combustible or explosive materials or hazardous chemicals;

f. No residential occupancy of the storage units;

g. No business activity other than the rental of storage units; and

h. A resident director shall be required on the *site* and shall be responsible for maintaining the operation of the facility in conformance with the conditions of approval.

⁴² Permitted when:

a. Located in the R-24 zone; and

b. On a *site* in *professional office or construction and trade office uses* as of May 8, 2003; and

c. Part of a *mixed use development*; and

d. Limited to 15,000 square feet; and

e. No *outdoor storage* of equipment occurs.

⁴³ Limited to *emergency* medical evacuation sites in conjunction with police, fire or health service facility.

⁴⁴ Not in R-1 and limited to *variety stores* with a maximum of 5,000 square feet of gross floor area, and subject to KMC 18.21.070.

⁴⁵ Not permitted in R-1 and limited to a maximum of 5,000 square feet of gross floor area and subject to KMC 18.21.070.

⁴⁶ Not permitted in R-1 and excluding drinking places, and limited to a maximum of 5,000 square feet of gross floor area and subject to KMC 18.21.070.

⁴⁷ *Social card games*, as defined by this title, are prohibited.

⁴⁸ Limited to *cogeneration* facilities for on-site use only.

⁴⁹ The following provisions apply only to *major communication facilities*. *Minor communication facilities* shall be reviewed in accordance with the processes and standards outlined in Chapter 18.60 KMC.

⁵⁰ a. Limited to no more than three satellite dish *antennas*.

b. Limited to one satellite dish *antenna*.

c. Limited to tower *consolidations*.

⁵¹ Only in conjunction with an existing or proposed school.

⁵² Except racing of motorized vehicles.

⁵³ Except arboretum.

⁵⁴ Except technical institutions. See *vocational schools*.

⁵⁵ Only as a re-use of a public school facility subject to Chapter 18.50 KMC.

⁵⁶ Only as a re-use of a surplus nonresidential facility subject to Chapter 18.50 KMC.

⁵⁷ A *family child-care home* is subject to the requirements established by the Washington State Department of Early Learning (DEL) in WAC Title 170. The *family child-care home* shall meet the following requirements:

a. The family child-care provider shall be licensed by DEL to operate a *family child-care home*;

b. A safe passenger loading area as certified by the DEL licensor shall be provided;

c. The *family child-care home* shall comply with all applicable building, fire, safety, and health codes enforced by the city;

d. The *family child-care home* shall comply with all applicable development standards of the city, unless determined to be legally nonconforming;

e. All signage shall conform to the applicable requirements of KMC Chapter 18.42; and

f. The city has the authority to limit the hours of operation to facilitate neighborhood compatibility.

18.21.050

Residential zones R12, R18, R24 and R48 -- Development standards.

The following zone-specific development standards in Table D apply in the R12, R18, R24, and R48 residential zones:

Table D. R12, R18, R24, and R48 Residential Zones Development Standards.

STANDARDS	Z O N E S	R-12	R-18	R-24	R-48
Base Density: <i>Dwelling Unit/Acre</i> ¹		12 du/ac	18 du/ac	24 du/ac	48 du/ac
Maximum Density: <i>Dwelling Unit/Acre</i> ²		18 du/ac	27 du/ac	36 du/ac	72 du/ac
Minimum Density ¹¹		80%	75%	70%	65%
Minimum Lot Width ⁴		30 ft	30 ft	30 ft	30 ft
Minimum <i>Street Setback</i>		10 ft ⁶	10 ft ⁶	10 ft ⁶	10 ft ⁶
Minimum <i>Side Setback</i> ^{3,5}		5 ft ⁷	5 ft ⁷	5 ft ⁷	5 ft ⁷
Minimum <i>Rear Setback</i> ^{3,5}		5 ft ⁷	5 ft ⁷	5 ft ⁷	5 ft ⁷

STANDARDS	Z O N E S	R-12	R-18	R-24	R-48
Base Height ⁸		60 ft	60 ft 80 ft ⁹	60 ft 80 ft ⁹	60 ft 80 ft ⁹
Maximum <i>Impervious Surface</i> : Percentage ¹⁰		85%	85%	85%	90%
Minimum Lot Size					

¹ Density applies only to *dwelling units* and not to sleeping units.

² This maximum density may be achieved only through the application of residential density incentives pursuant to Chapter 18.80 KMC or *transfers of density credits*, or any combination of density incentive or density transfer. Maximum density may only be exceeded pursuant to KMC 18.80.040(F)(1)(f).

³ These standards may be modified under the provisions for *zero-lot-line developments*.

⁴ The *building envelope* is determined through meeting minimum lot size and minimum lot width measurement requirements (KMC 18.30.110).

⁵ Vehicle access points from garages, carports or fenced parking areas shall be set back from the property line on which a *joint use driveway* is located to provide a straight line length of at least 26 feet as measured from the centerline of the garage, carport or fenced parking area, from the access point to the opposite side of the *joint use driveway*.

⁶ At least 20 linear feet of driveway shall be provided between any garage, carport or other fenced parking area and the *street* property line. The linear distance shall be measured along the centerline of the driveway from the access point to such garage, carport or fenced area to the *street* property line.

⁷ a. For *developments* consisting of three or more single detached dwellings located on a single parcel, the *setback* shall be 10 feet along any property line abutting R-1 through R-6, except for *structures* in on-site recreation areas required in KMC 18.30.130, which shall have a *setback* of five feet.

b. For *townhouse* and *apartment development*, the *setback* shall be 20 feet along any property line abutting R-1 through R-6, except for *structures* in on-site recreation areas required in KMC 18.30.130, which shall have a *setback* of five feet, unless the *townhouse* or *apartment development* is adjacent to property upon which an existing *townhouse* or *apartment development* is located.

⁸ Height limits may be increased when portions of the *structure* which exceed the base height limit provide one additional foot of *street* and interior *setback* for each foot above the base height limit, provided the maximum height may not exceed 75 feet. Netting or fencing and support *structures* for the netting or fencing used to contain golf balls in the operation of golf courses or golf driving ranges are exempt from the additional interior *setback* requirements; provided, that the maximum height shall not exceed 75 feet.

⁹ The base height to be used only for projects as follows:

a. In R-18, R-24 and R-48 zones using residential density incentives and *transfer of density credits* pursuant to this title.

¹⁰ Applies to each individual *lot*. *Impervious surface* area standards for:

a. *Regional uses* shall be established at the time of permit review;

b. *Nonresidential uses* in residential zones shall comply with KMC 18.30.170 and 18.21.060;

c. *Lots* may be increased beyond the total amount permitted in this chapter subject to approval of a *conditional use permit*.

¹¹ Minimum density is determined by multiplying the allowable number of dwelling units, as calculated using KMC 18.30.020, by the percentage shown for each zone.

18.21.060**Nonresidential land uses in residential zones.**

Except for *utility facilities*, *regional land uses*, and nonresidential uses regulated by KMC 18.21.070, all nonresidential uses located in the R zones shall be subject to the following requirements:

A. *Impervious surface* coverage shall not exceed:

1. Seventy percent of the *site* in the R-1 through R-6 zones.
2. Eighty percent of the *site* in the R-12 through R-48 zones.

B. *Buildings* and *structures*, except *fences* and wire or mesh backstops, shall not be closer than 30 feet to any property line, except as provided in subsection (C) of this section.

C. Single detached dwelling allowed as accessory to a church or school shall conform to the *setback* requirements of the zone.

D. Parking areas are permitted within the required *setback* area from property lines, provided such parking areas are located outside of the required landscape area.

E. *Sites* shall abut or be accessible from at least one public *street* functioning at a level consistent with the *city street* design standards. New *high school sites* shall abut or be accessible from a public *street* functioning as an arterial per the *city* design standards.

F. The base height shall conform to the zone in which the *use* is located.

G. *Building* illumination and lighted *signs* shall be designed so that no direct rays of light are projected into neighboring residences or onto any *street* right-of-way. [Ord. 98-0026 §§ 1, 2 (KCC 21A.12.220).]

18.21.070**Personal services and retail uses in R-4 through R-48 zones.**

General personal service uses, except drycleaning plants other than rug cleaning and industrial launderers, and *retail land uses*, except agricultural crop sales, which are located in the R-4 through R-48 zones shall be subject to the following requirements:

A. Each individual establishment shall not exceed 5,000 square feet of gross floor area and the combined total of all contiguous commercial establishments shall not exceed 15,000 square feet of gross floor area;

B. Establishments shall not be located less than one mile from another commercial establishment, unless located with other establishments meeting the criteria in subsection (A) of this section;

C. Establishment *sites* shall abut an intersection of two public *streets*, each of which is designated as a neighborhood collector or arterial and which has improved pedestrian facilities for at least one-fourth mile from the *site*;

D. The maximum on-site parking ratios for establishments and *sites* shall be two per 1,000 square feet and required parking shall not be located between the *building(s)* and the *street*; and

E. *Buildings* shall comply with the *building facade modulation* and roofline variation requirements in KMC 18.50.080 and at least one facade of the *building* shall be located within five feet of the sidewalk;

F. If the personal service or retail use is located in a *building* with multifamily *uses*, then the commercial *use* shall be on the *ground floor* and shall not exceed 25 percent of the total floor area of the *building*;

G. *Sign* and *landscaping* standards for the *use* apply. [Ord. 98-0026 §§ 1, 2 (KCC 21A.12.230).]

Chapter 18.22**NEIGHBORHOOD BUSINESS ZONE****Sections:**

18.22.010 Neighborhood business zone -- Use allowances.

18.22.020 Neighborhood business zone -- Development standards.

18.22.010**Neighborhood business zone -- Use allowances.**

The following *uses* in Table A are identified as permitted, conditionally permitted, special uses, or *prohibited uses* in the neighborhood business zone:

Table A. Neighborhood Business Zone Use Allowances

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
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EXHIBIT 1

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
Townhouse ¹	Sports Club ⁷	Jail	Single Detached Dwelling Unit
Apartment ¹	School District Support Facility	Work Release Facility	Family Child-Care Home
Community Residential Facility I ¹	Helistop ²²	Nonhydroelectric Generation Facility	Designated Manufactured Home
Community Residential Facility II ¹	Nonhydroelectric Generation Facility ²⁸	Communication Facility ²⁹	Mobile Home and Manufactured Home
Senior Citizen Assisted Living ¹	Communication Facility ^{29,30c}	Oil and Gas Extraction	Mobile Home Park
Residential Accessory Uses ²	Earth Station	Energy Resource Recovery Facility	Dormitory
Home Occupation	College/University ^{33,35}	Landfill	Home Industry
Bed and Breakfast Guesthouse ⁴		Transfer Station	Hotel/Motel ³
Park		Wastewater Treatment Facility	Organization Hotel/Lodging Houses
Trails		Municipal Water Production	Campgrounds
Marina ⁶		Airport/Heliport	Destination Resorts
Library		Transit Bus Base	Recreational Vehicle Park
Museum		School Bus Base	Adult Entertainment Business
Arboretum		Racetrack ³¹	Theater
Conference Center		College/University ³³	Theater, Drive-in
General Personal Service		Secure Community	Bowling Center
Cemetery, Columbarium or Mausoleum ¹⁰		Transition Facilities ³⁶	Golf Course Facility
Day Care I			Amusement and Recreation Services ^{8,9}
Day Care II			Shooting Range
Veterinary Clinic ¹¹			Amusement Arcades
Automotive Repair ^{12,13}			Amusement Park
Automotive Service ¹³			Outdoor Performance Center
Church, Synagogue, Mosque, Temple			Drycleaning Plants
Social Services ^{14,15}			Industrial Launderers
Artist Studios			Funeral Home/Crematory
Interim Recycling Facility ¹⁶			Miscellaneous Repair
Medical/Dental Office/Outpatient Clinic			Stable
Specialized Instruction School			Kennel or Cattery
Public Agency or Utility Office			Theatrical Production Services
Police Facility ¹⁷			Nursing and Personal Care Facilities
Fire Facility			Hospital
			Medical/Dental Lab
			Miscellaneous Health Services

EXHIBIT 1

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
<i>Utility Facility</i> <i>Commuter Parking Lot</i> <i>Private Stormwater Management Facility</i> ¹⁸ <i>Vactor Waste Receiving Facility</i> ¹⁹ <i>General Business Service Professional Office</i> <i>Automotive Parking</i> ²⁰ <i>Commercial/Industrial Accessory Uses</i> ²¹ <i>Building, Hardware and Garden Materials Stores</i> ²³ <i>Department and Variety Stores</i> ²⁴ <i>Food Stores</i> <i>Gasoline Service Stations</i> <i>Eating and Drinking Places</i> ^{25,26} <i>Drug Stores</i> <i>Book, Stationery, Video & Art Supply Stores</i> <i>Hobby, Toy, Game Shops</i> <i>Photographic and Electronic Shops</i> <i>Florist Shops</i> <i>Pet Shops</i> <i>Printing and Publishing</i> ²⁷ <i>Earth Station</i> ^{30b} <i>College/University</i> ^{33,34}			<i>Elementary School</i> <i>Middle/Junior High School</i> <i>Secondary or High School</i> <i>Vocational School</i> <i>Public Agency or Utility Yard</i> <i>Public Agency Archives</i> <i>Court</i> <i>Construction and Trade</i> <i>Individual Transportation and Taxi</i> <i>Trucking and Courier Service</i> <i>Warehousing and Wholesale Trade</i> <i>Self-Service Storage</i> <i>Farm Product Warehousing, Refrigeration and Storage</i> <i>Log Storage</i> <i>Transportation Service</i> <i>Freight and Cargo Service</i> <i>Passenger Transportation Service</i> <i>Communication Offices</i> <i>Telegraph and Other Communications</i> <i>Outdoor Advertising Service</i> <i>Miscellaneous Equipment Rental</i> <i>Automotive Rental and Leasing</i> <i>Professional Sports Teams/Promoters</i> <i>Research, Development and Testing</i> <i>Heavy Equipment and Truck Repair</i> <i>Forest Product Sales</i> <i>Agricultural Product Sales</i> <i>Motor Vehicle and Boat Dealers</i> <i>Auto Supply Stores</i>

EXHIBIT 1

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
			Apparel and Accessory Stores <i>Furniture and Home Furnishings Stores</i> Liquor Stores Used Goods: Antiques/Secondhand Shops <i>Sporting Goods</i> and Related Stores <i>Jewelry Stores</i> Monuments, Tombstones and Gravestones Sales <i>Fabric Shops</i> Fuel Dealers <i>Personal Medical Supply Stores</i> <i>Bulk Retail</i> <i>Auction Houses</i> <i>Livestock Sales</i> <i>Manufacturing Land Uses</i> , except Printing and Publishing <i>Resource Land Uses</i> <i>Jail Farm/Camp</i> <i>Public Agency Animal Control Facility</i> <i>Public Agency Training Facility</i> <i>Hydroelectric Generation Facility</i> <i>Soil Recycling Facility</i> <i>Fairground</i> Zoo/Wildlife Exhibit ³² Stadium/Arena

¹ Only as part of a *mixed use development* subject to the conditions of Chapter 18.50 KMC, except that stand-alone *townhouse developments* are permitted subject to KMC 18.22.020, 17.20.125, 18.50.050 and 18.30.120;

²a. See 18.73.100 KMC regarding *accessory dwelling units*.

b. One single or twin engine, noncommercial aircraft shall be permitted only on *lots* that abut, or have a legal access that is not a *city* right-of-way, to a waterbody or landing field, provided there is:

(1) No aircraft sales, service, repair, charter or rental; and

(2) No storage of aviation fuel except that contained in the tank or tanks of the aircraft.

³ Except *bed and breakfast guesthouses*.

⁴ *Bed and breakfast guesthouses* shall be subject to the following conditions:

a. The guesthouse shall be owner-occupied;

b. The number of guestrooms shall not be greater than that authorized by the International Building and Fire Codes;

c. Parking shall be provided as required by this title; and

d. The guesthouse shall be compatible with the neighborhood character as determined by the *city manager*, and shall not create significant adverse neighborhood effects that cannot be mitigated.

⁵ Reserved.

⁶ Limited to day moorage.

⁷ Only for stand-alone *sports clubs* that are not part of a *park*.

⁸ Excluding amusement and recreational *uses* classified elsewhere in this chapter.

⁹ *Social card games*, as defined by this title, are prohibited.

¹⁰ Limited to columbariums accessory to a church, but required *landscaping* and parking shall not be reduced.

¹¹a. No burning of refuse or dead animals is allowed;

b. The portion of the *building* or *structure* in which animals are kept or treated shall be soundproofed. All run areas, excluding *confinement areas* for *livestock*, shall be surrounded by an eight-foot solid wall and surfaced with concrete or other impervious material; and

c. The provisions of Chapter 18.70 KMC relative to animal keeping are met.

¹² Except tire retreading.

¹³ The repair work or service shall only be performed in an enclosed *building*, with no *outdoor storage* of materials. Top, body, and upholstery repair shops and paint shops are not allowed.

¹⁴ Except day care services and residential care.

¹⁵ Only as a re-use of a surplus nonresidential facility subject to Chapter 18.50 KMC.

¹⁶ With the exception of *drop box facilities* for the collection and temporary storage of *recyclable materials*, all processing and storage of material shall be within enclosed *buildings*. *Yard waste processing* is not permitted.

¹⁷ Limited to “storefront” police offices. Such offices shall not have:

a. Holding cells, or

b. Long-term storage of stolen properties.

¹⁸ Except in commercial zones or when participating in an approved shared facility drainage plan; such facilities shall be located on the same *lot* that they are designed to serve except in subdivisions or short subdivisions that set aside a separate tract for such facilities. In commercial zones or shared facilities, such facilities which are not located on the *lot* they are designed to serve shall be located on a *lot* with the same or more intensive zoning designation.

¹⁹ *Vector waste* treatment, storage and disposal shall be limited to liquid materials. Materials shall be disposed of directly into a sewer system, or shall be stored in tanks (or other covered *structures*), as well as enclosed *buildings*.

²⁰ No tow-in lots for damaged, abandoned or otherwise impounded vehicles.

²¹ Storage limited to accessory storage of commodities sold at retail on the premises or materials used in the fabrication of commodities sold on the premises.

²² Limited to *emergency* medical evacuation sites in conjunction with police, fire or health service facility.

²³ Only *hardware* and *garden materials stores* shall be permitted.

- ²⁴ Limited to *variety stores*, and further limited to a maximum of 2,000 square feet of gross floor area.
- ²⁵ Excluding drinking places.
- ²⁶ *Social card games*, as defined by this title, are prohibited.
- ²⁷ Limited to photocopying and printing services offered to the general public.
- ²⁸ Limited to *cogeneration* facilities for on-site use only.
- ²⁹ The provisions apply only to *major communication facilities*. *Minor communication facilities* shall be reviewed in accordance with the processes and standards outlined in Chapter 18.60 KMC.
- ³⁰
 - a. Limited to no more than three satellite dish *antennas*.
 - b. Limited to one satellite dish *antenna*.
 - c. Limited to tower *consolidations*.
- ³¹ Except racing of motorized vehicles.
- ³² Except arboretum.
- ³³ Except technical institutions. See *vocational schools*.
- ³⁴ Only as a re-use of a public school facility subject to Chapter 18.50 KMC.
- ³⁵ Only as a re-use of a surplus nonresidential facility subject to Chapter 18.50 KMC.
- ³⁶ *SCTF* Siting. *Secure community transition facilities* as defined in RCW 71.09.020 are permitted by *special use permit* in the neighborhood business zone, subject to the following restrictions:
 - a. Maximum Number of Residents. No *SCTF* shall house more than three persons, excluding resident staff.
 - b. Siting Criteria.
 - (1) *SCTFs* should be located in relationship to transportation facilities in a manner appropriate to their transportation needs.
 - (2) No *SCTF* shall be allowed within the following distances from the following specified *uses*, areas or zones, whether such *uses*, areas or zones are located within or outside the *city* limits:
 - (A) In or within 250 feet of any residential zone district, or any residentially zoned property;
 - (B) Adjacent to, immediately across a *street* or parking lot from, or within the line of sight of a “risk potential activity” as defined in RCW 71.09.020, as amended, including, but not limited to, public and private schools; school bus stops; licensed *day care* and licensed preschool facilities; public *parks*, publicly dedicated *trails* and sports fields; recreational and community centers; playgrounds; *church*, *synagogue*, *mosque*, *temple*; and public libraries.
 - (C) One mile from any existing *SCTF*, work release, prerelease, or similar facility.
 - (3) The distances specified in subsection (B)(36)(b)(2) of this section shall be measured by following a straight line from the nearest point of the property parcel upon which the *SCTF* is to be located, to the nearest point of the parcel of property or land use district boundary line from which the proposed land use is to be separated.
 - c. On-Site Facilities Required. Each *SCTF* shall provide on-site dining, on-site laundry or laundry service, and on-site *recreational facilities* to serve the residents.
 - d. *Special Use Permit* Application Process. A *special use permit* application for an *SCTF* shall be accompanied by the following:
 - (1) The siting process used for the *SCTF*, including alternative locations considered. At least three alternative locations must be considered.
 - (2) An analysis showing that utmost consideration was given to potential *sites* such that siting of the facility will have no unreasonable impact on any one racial, cultural, or socio-economic group, and that there will not be a resulting concentration of similar facilities in a particular neighborhood, community, jurisdiction or region.
 - (3) Proposed mitigation measures including the use of extensive buffering from adjacent *uses*.
 - (4) A detailed security plan for the facility and the residents.
 - (5) Proposed operating rules for the facility.
 - (6) A schedule and analysis of all public input solicited or to be solicited during the siting process.

18.22.020

Neighborhood business zone -- Development standards.

The following zone-specific development standards in Table B apply in the neighborhood business zone:

Table B. Neighborhood Business Zone Development Standards

	Z O N E	N B E U I S G I H N B E O S R S H O O D
STANDARDS		NB
Base Density: <i>Dwelling Unit/Acre</i>		8 du/ac ¹
Maximum Density: <i>Dwelling Unit/Acre</i>		12 du/ac ²
Minimum <i>Street Setback</i>		10 ft ³
Minimum <i>Interior Setback</i>		20 ft ^{4,5}
Base Height ⁶		35 ft 45 ft ⁷
Maximum <i>Floor Area Ratio</i> : Square Feet		1/1 ⁸
Maximum <i>Impervious Surface</i> : Percentage ⁹		85%

¹ These densities are allowed only through the application of *mixed use development* standards and for stand-alone *townhouse development*.

² These densities may only be achieved through the application of residential density incentives or *transfer of density credits* in *mixed use developments* and for stand-alone *townhouse development*. See Chapter 18.80 KMC.

³ Gas station pump islands shall be placed no closer than 25 feet to *street* front lines.

⁴ Required on property lines adjoining residential zones.

⁵ Required on property lines adjoining residential zones except when a stand-alone *townhouse development* is proposed to be located adjacent to property upon which an existing *townhouse development* is located.

⁶ Height limits may be increased when portions of the *structure/building* which exceed the base height limit provide one additional foot of *street* and interior *setback* for each foot above the base height limit, provided the maximum height may exceed 75 feet only in *mixed use developments*. Netting or fencing and support *structures* for the netting or fencing used to contain golf balls in the operation of golf courses or golf

driving ranges are exempt from the additional interior *setback* requirement; provided, that the maximum height shall not exceed 75 feet.

⁷ This base height allowed only for *mixed use developments* and for stand-alone *townhouse development*.

⁸ The *floor area ratio* for *mixed use developments* shall conform to Chapter 18.50 KMC.

⁹ The *impervious surface* area for any *lot* may be increased beyond the total amount permitted in this chapter subject to approval of a *conditional use permit*.

Chapter 18.23

COMMUNITY BUSINESS ZONE

Sections:

- 18.23.010 Intent.
- 18.23.020 Use allowances.
- 18.23.030 Accessory uses.
- 18.23.040 Zoning standards.

18.23.010

Intent.

A. The purpose of the community business zone (CB) is to provide pedestrian-friendly, *mixed use development* that both supports larger mixed use and commercial areas with its residential *development*, and provide small-scale retail, office and personal services for the local community. The CB zone also provides retail and personal services in locations that are not appropriate for extensive *outdoor storage* or auto-related *uses*. These purposes are accomplished by:

1. Providing for limited small-scale offices as well as a wide range of the small-scale retail, professional, governmental and personal services that are found in neighborhood business areas;
2. Encouraging *mixed use* (housing and retail/service) *developments*; and
3. Excluding commercial *uses* with extensive *outdoor storage* or auto-related *uses*.

B. Use of this zone is appropriate in areas that are designated by the comprehensive plan that are served at the time of *development* by adequate public sewers, water supply, *streets* and other needed public facilities and services. [Ord. 07-0275 § 2.]

18.23.020

Use allowances.

The following *uses* listed in Table A are identified as permitted, conditionally permitted, or *prohibited uses* in the community business zone:

Table A. Community Business Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
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EXHIBIT 1

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Artists' Studios</i> <i>Arts and Crafts Schools/Studios</i> <i>Bed and Breakfast Guesthouses</i> <i>Family Child-Care Home²</i> <i>Day Care Centers I and II</i> <i>Eating and Drinking Places¹</i> <i>General Business Services</i> <i>Home Occupation</i> <i>Medical/Dental Office/Outpatient Clinic</i> <i>Multiple-Family Dwelling</i> <i>Professional Offices</i> <i>Parks</i> <i>Private Stormwater Management Facility</i> <i>Rental Services, No Outside Storage</i> <i>Retail Sales, Indoor¹</i> <i>Services, On-Site¹</i> <i>Single Detached Dwelling Unit, Existing Legal</i> <i>Trails</i>	<i>City Government Facilities and Offices</i> <i>College/University</i> <i>Communication Facility, Major and Minor; only when on a building; prohibit stand alone</i> <i>Community Residential Facility I or II</i> <i>Conference Centers</i> <i>Cultural Facilities</i> <i>Fire Facility</i> <i>K-12 Educational Institution (public or private)</i> <i>Medical/Dental Labs</i> <i>Nursing and Personal Care Facilities</i> <i>Police Facility</i> <i>Public Agency or Utility Office: Non-city</i> <i>Recreational Facilities, Indoor</i> <i>Religious Institutions: Church, Synagogue, Mosque, Temple</i> <i>Services, Off-Site</i> <i>Social Services, Noncorrectional</i> <i>Specialized Instruction School</i> <i>Utility Facility: Limited to Sewer Lift Stations and Pipes/Electrical Wires and Associated Structure Supports</i> <i>Veterinary Offices/Clinics</i> <i>Vocational Schools</i>	<i>Adult Entertainment Business</i> <i>Auto Supply Stores</i> <i>Automotive Rental and Leasing</i> <i>Automotive Repair</i> <i>Automotive Service</i> <i>Bulk Retail</i> <i>Car Wash</i> <i>Construction and Trade</i> <i>Drive-Through Service</i> <i>Helistop</i> <i>Hospitals</i> <i>Hotel</i> <i>Indoor Storage</i> <i>Interim Recycling Facility</i> <i>Manufacturing</i> <i>Mobile Food Vendor</i> <i>Mobile Home Parks</i> <i>Motel</i> <i>Motor Vehicle and Boat Dealers</i> <i>Outdoor Performance Center</i> <i>Outdoor Retail Display/Sidewalk Sale</i> <i>Outdoor Storage</i> <i>Recreational Facilities, Outdoor</i> <i>Rental Services with Outside Storage</i> <i>Retail Sales, Outdoor</i> <i>Self-Service Storage</i> <i>Single Detached Dwelling Unit, New</i> <i>Social Services, Correctional</i> <i>Taxi Stand</i> <i>Theater</i> <i>Theatrical Production Services</i> <i>Tow Truck Operation/Auto Yard</i> <i>Transit Center</i> <i>Trucking and Courier Service</i> <i>Warehousing and Wholesale Trade</i>

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED

¹ Permitted only as part of a *mixed use development* and must occupy 50 percent of the *ground floor at street frontage*. Each *use* is limited to maximum 5,000 square feet per *use* and 15,000 square feet total contiguous.

² A *family child-care home* is permitted in an existing legal *single detached dwelling unit* subject to the requirements established by the Washington State Department of Early Learning (DEL) in WAC Title 170. The *family child-care home* shall meet the following requirements:

- a. The family child-care provider shall be licensed by DEL to operate a *family child-care home*;
- b. A safe passenger loading area as certified by the DEL licensor shall be provided;
- c. The *family child-care home* shall comply with all applicable building, fire, safety, and health codes enforced by the city;
- d. The *family child-care home* shall comply with all applicable development standards of the city, unless determined to be legally nonconforming;
- e. All signage shall conform to the applicable requirements of KMC Chapter 18.42; and
- f. The city has the authority to limit the hours of operation to facilitate neighborhood compatibility.

[Ord. 07-0275 § 2.]

18.23.030

Accessory uses.

Accessory uses, when consistent with the definitions and criteria in Chapter 18.10 and 18.20 KMC, are allowed as determined by the *city manager*. [Ord. 07-0275 § 2.]

18.23.040**Zoning standards.**

The following zone-specific development standards in Table B apply in the community business zone:

Table B

STANDARD	REQUIREMENT
Base Density: <i>Dwelling Units</i> /Gross Acre	24
Minimum Density: <i>Dwelling Units</i> /Gross Acre	18
Maximum Density: <i>Dwelling Units</i> /Gross Acre	36 for <i>mixed use development</i> .
Minimum <i>Street Setback</i> ¹	10 feet; or 0 feet for a mixed use <i>building</i> with commercial on the <i>ground floor</i> or for any <i>building</i> with structured parking.
Minimum Interior <i>Setback</i> : ¹	0 feet for commercial or <i>mixed use development</i> except for <i>interior lot lines</i> adjoining property zoned R-1 to R-6. 5 feet landscaped <i>setback</i> for residential except for <i>interior lot lines</i> adjoining property zoned R-1 to R-6. For all <i>interior lot lines</i> adjoining a property zoned R-1 to R-6 a 15-foot landscaped <i>setback</i> is required.
Base Height: ²	35 feet.
Maximum <i>Impervious Surface</i> : Percentage	90%
Pedestrian Connections	Pedestrian connections are required to be provided in accordance with Chapter 18.52 KMC, Downtown Design Standards.

¹ Any portion of *development* that occurs underground is exempt from property line *setback* requirements of this code section.

² The exceptions to height limits listed in KMC 18.30.060 do not apply to the base height allowed in the CB zone. Any *development* utilizing the exception to height limits for the CB zone between 61st Avenue NE and 65th Avenue NE shall dedicate 25 percent of the average lot width above 35 feet in height as a view corridor to Lake Washington.

Exceptions to height limitations for the base height in the CB zone shall be:

- Roof *structures* housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for *building* operations and maintenance, or for communication transmission and receiving *structures* may extend up to 10 feet above the 35-foot base height for a maximum of 25 percent of the average lot width.
- Fire or parapet walls, skylights, flagpoles, chimneys, smokestacks, church steeples, crosses, spires, utility line towers and poles, and similar *structures* may extend up to three feet above the maximum base height of 35 feet.
- Roof details or features that are used to comply with the roof form requirements of KMC 18.52.220 may extend a maximum of 10 feet above the 35-foot base height.

[Ord. 08-0291 § 1; Ord. 07-0275 § 2.]

Chapter 18.24**DOWNTOWN RESIDENTIAL ZONE**

Sections:

- 18.24.010 Intent.
 18.24.020 Use allowances.
 18.24.030 Accessory uses.
 18.24.040 Zoning standards.
 18.24.050 Conflicts.

18.24.010**Intent.**

A. The downtown residential zone provides higher density residential *development* in support of the downtown commercial zone. Limited retail and office *uses* are also allowed as part of *mixed use developments*. The zone represents an opportunity to provide a range of housing types in the community with attention to appearance and scale.

B. Some limited existing *uses* requiring vehicle storage that continue to contribute to the economic vitality of downtown are permitted to continue their business on existing properties, but are encouraged to transition the use of their properties to those more in keeping with subsection (A) of this section. [Ord. 07-0277 § 2; Ord. 03-0175 § 18.]

18.24.020**Use allowances.**

The following *uses* in Table A are identified as permitted, conditionally permitted, or *prohibited uses* in the downtown residential zone.

Table A. Downtown Residential Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Auction House, Existing</i> ⁶ <i>Automotive Service, Accessory</i> ¹ <i>Bed and Breakfast Guesthouse</i> <i>City Government Facilities and Offices</i> <i>Community Residential Facility I or II</i> <i>Cultural Facilities</i> <i>Family Child-Care Home</i> ⁸ <i>Day Care I or II</i> ² <i>Home Occupation</i> <i>Multiple-Family Dwelling</i> ³ <i>On-Site Services</i> ⁴ <i>Parking: Off-Street Required Parking Lot or Structure</i> <i>Parks</i> <i>Professional Office</i> ⁴ <i>Recreation, Indoor: Sports Club</i> <i>Retail Sales, Indoor</i> ⁴ <i>Single Detached Dwelling Unit, Existing Legal</i>	<i>Communication Facility, Major</i> ⁵ <i>Eating and Drinking Places</i> <i>Nursing and Personal Care Facilities</i> <i>Religious Institutions: Church, Synagogue, Mosque, Temple</i> <i>Social Services, Noncorrectional</i> <i>Utility Facility: Limited to Sewer Lift Stations and Pipes/Electrical Wires and Associated Structural Supports</i>	<i>Indoor Storage</i> <i>Mobile Home Parks</i> <i>Outdoor Storage</i> <i>Public Agency or Utility Office: Noncity</i> <i>Retail Sales, Outdoor</i> <i>Self-Service Storage</i> <i>Single Detached Dwelling Unit, New</i> <i>Social Services, Correctional</i>

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
Trails Vehicle Auction, Existing ⁷		

¹ Only permitted when accessory to and contained within a structured parking garage.

² *Day care* II permitted only when accessory to a school, church, *park*, *sport club* or public housing administered by a *public agency*.

³ *Townhouses* are required to have four units minimum in a cluster. Enclosed under building parking is required per Chapter 18.52 KMC, Downtown Design Standards.

⁴ Permitted only as part of a *mixed use development*, and must occupy 50 percent of the *ground floor* at *street frontage*. Each *use* is limited to maximum 5,000 square feet per *use* and 15,000 square feet total contiguous.

⁵ Limited to tower *consolidations*.

⁶ Except for vehicle and animal auction *uses*. Existing *auction houses* are permitted on properties currently used for *auction house* activity as of January 12, 2007. This *use* may be continued and may be re-established for purposes of rebuilding upon unintentional destruction of the property. The *auction house use* may not expand *buildings* or storage beyond the *use's* existing footprint. The *auction house* may expand accessory on-site parking associated with existing *auction house use* to adjoining or nearby parcels of land, subject to the *city's* approval of a site improvement plan that addresses the following issues:

- Submittal of a long-term parking management plan that shows how the *use's* parking needs are met by on-site parking and/or provisions of a long-term shared parking agreement;
- Submittal of a traffic management plan that shows how the *applicant* intends to assure safe passage of pedestrians and vehicles in the vicinity of auction events;
- Screening of *outdoor storage* and parking areas consistent with Kenmore Downtown Design Standard parking lot screening requirements, KMC 18.52.180;
- Provision of sidewalks along property frontages in the public rights-of-way, or other measures deemed by the *city* to adequately protect pedestrians traveling along property frontages; and
- Ensures that expanded accessory parking area is not used for storage.

⁷ Vehicle auctions in existence as of January 12, 2007, are permitted on site area and within *buildings* in the downtown residential zone located east of 68th Avenue NE, and north of NE 182nd Street that are being used as a vehicle auction *use* as of that date. This *use* may be continued and may be re-established for purposes of rebuilding upon unintentional destruction of property. With the exception of accessory parking outlined below, existing vehicle auction *uses* may not expand beyond their existing building footprint plus abutting easements, loading, or parking areas used for vehicle auction as of January 12, 2007. Renovations or alterations within the existing building footprint are permitted. However, expansion of existing *buildings* for vehicle auction *use* is prohibited. Expansion of accessory on-site parking associated with existing vehicle auction *use* to adjoining or nearby parcels of land is allowed, subject to the *city's* approval of a site improvement plan that addresses the following issues:

- Submittal of a long-term parking management plan that shows how the *use's* parking needs are met by on-site parking and/or provisions of a long-term shared parking agreement;
- Submittal of a traffic management plan that shows how the *applicant* intends to assure safe passage of pedestrians and vehicles in the vicinity of auction events;
- Screening of *outdoor storage* and parking areas consistent with Kenmore Downtown Design Standard parking lot screening requirements, KMC 18.52.180;
- Provision of sidewalks along property frontages in the public rights-of-way, or other measures deemed by the *city* to adequately protect pedestrians traveling along property frontages; and
- Ensures that expanded accessory parking area is not used for storage.

⁸ A *family child-care home* is permitted in an existing legal *single detached dwelling unit* subject to the requirements established by the Washington State Department of Early Learning (DEL) in WAC Title 170. The *family child-care home* shall meet the following requirements:

- The family child-care provider shall be licensed by DEL to operate a *family child-care home*;

- b. A safe passenger loading area as certified by the DEL licensor shall be provided;
- c. The *family child-care home* shall comply with all applicable building, fire, safety, and health codes enforced by the city;
- d. The *family child-care home* shall comply with all applicable development standards of the city, unless determined to be legally nonconforming;
- e. All signage shall conform to the applicable requirements of KMC Chapter 18.42; and
- f. The city has the authority to limit the hours of operation to facilitate neighborhood compatibility.

[Ord. 07-0277 § 2; Ord. 03-0175 § 18.]

18.24.030

Accessory uses.

Accessory uses, when consistent with definitions and criteria in Chapters 18.10 and 18.20 KMC, are allowed as determined by the *city manager*. [Ord. 03-0175 § 18.]

18.24.040

Zoning standards.

Specific zone-based development standards for the downtown residential zone in Table B apply to the DR zone as follows:

Table B. Downtown Residential Development Standards

STANDARD	REQUIREMENT
Base Density: <i>Dwelling Units</i> /Gross Acre	48; applies east of 68th Avenue NE
Maximum Density: <i>Dwelling Units</i> /Gross Acre with Density Bonus Incentives	72; density incentives or bonuses not required west of 68th Avenue NE
Minimum Density: <i>Dwelling Units</i> /Net Acre	18 – <i>Townhouse</i> only development 18-36 – <i>Townhouse/apartment</i> combination development 36 – <i>Apartments</i>
Minimum Lot Width	<i>Townhouse</i> – 20 ft. <i>Apartment</i> – 30 ft.
Minimum <i>Street Setback</i>	Primary <i>structure</i> – 6 ft. min.; 8 ft. min. average Garage, carport, paved parking – 10 ft.
Maximum <i>Street Setback</i>	West of 68th Avenue NE, the maximum <i>setback</i> is 10 ft.
Minimum Interior <i>Setback</i>	5 ft.; otherwise when adjoining property zoned R-1 to R-6 zone then 20 ft.
Maximum Height	East of 68th Avenue NE – 60 ft. or 80 ft. if providing density incentives per Chapter 18.80 KMC West of 68th Avenue NE – 80 ft. ¹
Maximum <i>Impervious Surface</i> : Percentage	90%
Pedestrian Connections	Pedestrian connections shall be provided in accordance with Chapter 18.52 KMC, Downtown Design Standards

¹ Through the design review process the *city manager* may require greater upper story setbacks, or mass and bulk reductions, than otherwise stated in KMC 18.52.310 in order to achieve greater compatibility of *development* where DR zoned property abuts property zoned R-1 to R-12. For example, greater upper story setbacks may be required in proportion to the height of *structures* above 60 feet.

[Ord. 07-0260 § 1; Ord. 03-0175 § 18.]

18.24.050

Conflicts.

In the event of conflict between Chapter 18.52 KMC, Downtown Design Standards, and downtown residential zone standards, the Kenmore downtown design standards shall prevail. [Ord. 03-0175 § 18.]

Chapter 18.25

DOWNTOWN COMMERCIAL ZONE

Sections:

- 18.25.010 Intent.
- 18.25.020 Use allowances.
- 18.25.030 Accessory uses.
- 18.25.040 Zoning standards.
- 18.25.050 Conflicts.

18.25.010

Intent.

A. The downtown commercial zone features a mix of *private* and public *uses* designed to create a small-town feel, and pedestrian-friendly environment. Public places, sidewalks, extensive *landscaping*, transit orientation, shared or structured parking, protection of *critical areas*, and high quality design and signage are key features. *Permitted uses* emphasize mixed or multiple use *developments*, and include high-density housing, civic and governmental offices, small-scale commercial and retail, and locally oriented professional and personal services.

B. *Uses* not compatible with the downtown commercial zone intent such as those which require vehicle or materials storage, service bays, wide curb cuts, expanses of exterior product display or storage, or produce little customer or visitor activity are not permitted. Some limited existing *uses* requiring vehicle storage that continue to contribute to the economic vitality of downtown are permitted to continue their business on existing properties, but are encouraged to transition the use of their properties to those more in keeping with subsection (A) of this section of this intent statement. Park-and-ride/*transit centers* are promoted along SR-522, particularly in the northwest quadrant of the 68th Avenue NE/SR-522 intersection. [Ord. 07-0277 § 2; Ord. 03-0175 § 17.]

18.25.020

Use allowances.

The following *uses* listed in Table A are identified as permitted, conditionally permitted, or *prohibited uses* in the downtown commercial zone:

Table A. Downtown Commercial Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
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EXHIBIT 1

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Adult Entertainment Businesses¹¹</i> <i>Artists Studios</i> <i>Arts and Crafts Schools/Studios</i> <i>Auction House, Existing¹²</i> <i>Auto Supply Stores</i> <i>Automotive Rental and Leasing, Accessory¹</i> <i>Automotive Repair, Accessory¹</i> <i>Automotive Repair, Existing Legal¹⁰</i> <i>Automotive Service, Accessory¹</i> <i>Automotive Service, Existing Legal¹</i> <i>Bed and Breakfast Guesthouse²</i> <i>Car Wash, Accessory¹</i> <i>City Government Facilities and Offices</i> <i>Conference Centers</i> <i>Cultural Facilities</i> <i>Day Care Centers I and II</i> <i>Drive-Through Service³</i> <i>Eating and Drinking Places</i> <i>Gasoline Service Stations, Existing Legal</i> <i>General Business Services</i> <i>Home Occupation</i> <i>Hotel</i> <i>Medical/Dental Office/Outpatient Clinic</i> <i>Mobile Food Vendor⁴</i> <i>Motor Vehicle and Boat Dealers, Accessory¹</i> <i>Multiple-Family Dwelling⁵</i> <i>Off-Site Services⁸</i> <i>Outdoor Performance Center⁶</i> <i>Outdoor Retail Display/Sidewalk Sale⁷</i> <i>Professional Offices</i> <i>Parking: Commuter Parking Lot or Structure, Off-Street Required Parking Lot or Structure⁹</i> <i>Parks</i> <i>Private Stormwater Management Facility</i> <i>Recreational Facilities, Indoor</i> <i>Rental Services, No Outside Storage</i> <i>Retail Sales, Indoor</i> <i>Services, On-Site</i> <i>Social Services, Noncorrectional</i> <i>Taxi Stand</i> <i>Theater</i> <i>Theatrical Production Services</i> <i>Trails</i>	<i>College/University</i> <i>Communication Facility, Major and Minor: Only when on building; prohibit stand alone</i> <i>Community Residential Facility I or II</i> <i>Fire Facility</i> <i>Helistop</i> <i>Hospitals</i> <i>K-12 Educational Institution (public or private)</i> <i>Medical/Dental Labs</i> <i>Police Facility</i> <i>Public Agency or Utility Office: Noncity</i> <i>Religious Institutions: Church, Synagogue, Mosque, Temple</i> <i>Social Services, Correctional</i> <i>Specialized Instruction School</i> <i>Utility Facility: Limited to Sewer Lift Stations and Pipes/Electrical Wires and Associated Structural Supports</i> <i>Vocational School</i>	<i>Automotive Rental and Leasing, New, Nonaccessory</i> <i>Automotive Repair, New, Nonaccessory</i> <i>Automotive Service, New, Nonaccessory</i> <i>Bulk Retail</i> <i>Car Wash, Nonaccessory</i> <i>Construction and Trade</i> <i>Gasoline Service Stations, New</i> <i>Indoor Storage</i> <i>Interim Recycling Facility</i> <i>Manufacturing</i> <i>Motel</i> <i>Motor Vehicle and Boat Dealers, Nonaccessory</i> <i>Nursing and Personal Care Facilities</i> <i>Outdoor Storage</i> <i>Recreational Facilities, Outdoor</i> <i>Rental Services, with Outside Storage</i> <i>Retail Sales, Outdoor</i> <i>Self-Service Storage</i> <i>Tow Truck Operation/Auto Impoundment Yard</i> <i>Trucking and Courier Service</i> <i>Warehousing and Wholesale Trade</i>

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Transit Center</i> ⁹ Vehicle Auction, Existing ¹³ Veterinary Offices/Clinics: No outdoor kennels or facilities		

¹ Permitted only when accessory to and contained within a structured parking garage. Automotive rental and leasing uses, or *motor vehicle and boat dealer uses*, may also be permitted when accessory to an *existing legal* automotive service or *existing legal* automotive repair use and consistent with the following: (a) motor vehicles for sale, lease or rental shall not be arranged in a display lot fashion along the primary *street frontage*, and (b) shall be a subordinate and incidental part of the automotive repair or automotive service business, and (c) shall be subject to Chapter 18.52 KMC, Downtown Design Standards, regarding screening, location and other relevant standards. Otherwise prohibited.

² Permitted only if part of a *mixed use development*.

³ Properties having frontage on SR-522 and taking primary access from SR-522 as of the effective date of the ordinance codified in this title shall be permitted *drive-through service*. Where allowed, *drive-through service* is permitted as an *accessory use*. *Drive-through service* shall be oriented to the side and/or rear of the *building*, and integrated into the exterior wall. Drive-through lanes shall not be located between the *street* and the main pedestrian access to the *buildings*. Modifications to these requirements may be reviewed through the site plan or building permit review process when meeting the intent of pedestrian orientation pursuant to Chapter 18.52 KMC, Downtown Design Standards.

⁴ *Mobile food vendors* are permitted subject to the following requirements:

- a. The stand is located on a sidewalk or near a storefront consistent with barrier-free regulations;
- b. The stand location on the sidewalk or near a storefront provides for at least four feet of unobstructed sidewalk between the stand and the sidewalk edge for pedestrian movement;
- c. No permanent fencing, walls, or other *structures* are installed which hinder removal of the *structure* from the *site*;
- d. No required parking stall shall be blocked or unusable as a result of the mobile vendor;
- e. Safe ingress and egress to the *site* shall be maintained. Visibility for transportation and pedestrian access shall be maintained;
- f. The limited duration of the mobile vendor shall be established as a condition of approval of any applicable permits; if accessory to a *use*, such operation is removed daily at the time of or prior to the close of business hours;
- g. A sign permit is required for exterior signage in accordance with the sign code, Chapter 18.42 KMC.

⁵ When located on property fronting on SR-522, NE 73rd Street, NE 181st Street west of 68th Avenue NE, 65th Avenue NE, 67th Avenue NE, or 68th Avenue NE such *uses* shall be subject to the following conditions:

- a. A minimum of 80 percent of a *structure's* street front facade at street level shall be occupied by nonresidential (e.g., retail, office or service) *uses*. If the nonresidential and residential *uses* are located in separate *structures*, the 80 percent requirement shall apply to the *lot's* lineal *street frontage* at street level. Where the *lot* fronts on two or more *streets* and abuts a *lot* which is not zoned commercial, the street front facade requirement shall apply to the *structure's* facade along the *street* with the greatest continuous lineal feet of commercially zoned frontage.
- b. The required nonresidential *use* shall extend at least 30 feet in depth at street level from the street front facade of the *structure*; provided, that the minimum required depth may be averaged, with no depth less than 15 feet.
- c. Where a *lot* fronts on two or more *streets* and only abuts *lots* which are zoned commercial, the street front facade requirement shall be calculated by totaling the combined street front facades of the *structure* containing the required nonresidential *use*.

- ⁶ Permitted when located west of 68th Avenue NE and associated with a plaza open to the public, and space is made available for general public passive or active use during non-performance hours.
- ⁷ *Outdoor retail displays/sidewalk sales* are permitted subject to:
- a. The *outdoor retail display/sidewalk sale* shall be accessory to a permitted permanent commercial use;
 - b. Fire lanes shall remain fully open and accessible at all times;
 - c. The location on sidewalk or near storefront is barrier-free;
 - d. No required parking stall shall be blocked or unusable as a result of the *outdoor retail display/sidewalk sale*;
 - e. Safe ingress and egress to the *site* shall be maintained. Visibility for transportation and pedestrian access shall be maintained;
 - f. Such display and activity is removed daily at the time of or prior to the close of business hours;
 - g. A sign permit is required for exterior signage in accordance with the sign code, Chapter 18.42 KMC.
- ⁸ When located along NE 73rd Street, NE 181st Street west of 68th Avenue NE, 65th Avenue NE, 67th Avenue NE, or 68th Avenue NE, such use shall be housed on floors other than the *ground floor* street front facade.
- ⁹ a. Within the zone north of SR-522 and west of 68th Avenue NE, *transit centers* and commuter parking facilities shall be in structured *buildings* when the number of stalls exceeds 20. *Transit centers* or *commuter parking lots* shall be located a maximum distance of 1,200 lineal feet measured from the center line of SR-522 to the furthestmost point of the *transit center* or *commuter parking lot*.
- b. Parking structures, in whatever location in the zone, shall provide retail usages for at least 50 percent of the *ground floor street frontages*, consistent with Chapter 18.52 KMC, Downtown Design Standards.
- c. Parking structures shall be designed consistent with Chapter 18.52 KMC, Downtown Design Standards; interior design considerations shall include integration of parking with any transit bays, provision of indoor access to shops, and covered walkways to adjacent shopping, civic, residential, or other *developments* that patrons will access. Crime prevention through environmental design (CPTED) principles shall be integrated, such as, but not limited to, full spectrum lighting and maximization of visibility in publicly used areas.
- ¹⁰ In the downtown commercial zone, properties (a) fronting SR-522 or taking primary access from SR-522, and (b) located on a property where the extent of use is no deeper than 260 feet from SR-522, and (c) containing automotive repair or automotive service *uses* as of April 28, 2003 shall be considered *existing legal uses*. Otherwise prohibited.
- ¹¹ It shall be unlawful for any person to establish an *adult entertainment business* or to relocate an *adult entertainment business* within 330 feet, measured from the property line of the parcel or parcels proposed to contain the *adult entertainment business* to the property line of the parcels containing the *use* in this subsection, without regard to intervening *structures* or objects, if any:
- a. Residentially zoned property;
 - b. Public or *private* school for general education of any grade K through 12;
 - c. School bus stop;
 - d. Licensed *day_care* or licensed preschool facility;
 - e. Public *park*;
 - f. Publicly dedicated *trail*; provided, however, that the *setback* distance shall apply only on the south side of the Burke-Gilman Trail, and that there shall be no *setback* on the north side of that trail due to the separation provided by SR 522;
 - g. Sports fields or playgrounds;
 - h. Recreation or community center;
 - i. *Church, synagogue, mosque, temple*, or other house of religious worship;
 - j. Public library.
- It shall be unlawful for any person to establish an *adult entertainment business* or to relocate an *adult entertainment business* within 500 feet of another *adult entertainment business*, measured from the property line of the parcel or parcels containing the *adult entertainment business* and the proposed *adult entertainment business*.

- ¹² Except for vehicle and animal auction *uses*. Existing *auction houses* are permitted on properties currently used for *auction house* activity as of January 12, 2007. This *use* may be continued and may be re-established for purposes of rebuilding upon unintentional destruction of the property. The *auction house use* may not expand *buildings* or storage beyond the *use's* existing footprint. The *auction house* may expand accessory on-site parking associated with existing *auction house use* to adjoining or nearby parcels of land, subject to the *city's* approval of a site improvement plan that addresses the following issues:
- Submittal of a long-term parking management plan that shows how the *use's* parking needs are met by on-site parking and/or provisions of a long-term shared parking agreement;
 - Submittal of a traffic management plan that shows how the *applicant* intends to assure safe passage of pedestrians and vehicles in the vicinity of auction events;
 - Screening of *outdoor storage* and parking areas consistent with Kenmore Downtown Design Standard parking lot screening requirements, KMC 18.52.180;
 - Provision of sidewalks along property frontages in the public rights-of-way, or other measures deemed by the *city* to adequately protect pedestrians traveling along property frontages; and
 - Ensures that expanded accessory parking area is not used for storage.
- ¹³ Vehicle auctions in existence as of January 12, 2007, are permitted on site area and within *buildings* in the downtown commercial zone located east of 68th Avenue NE, and north of NE 182nd Street that are being used as a vehicle auction *use* as of that date. This *use* may be continued and may be re-established for purposes of rebuilding upon unintentional destruction of property. With the exception of accessory parking noted in this subsection, existing vehicle auction *uses* may not expand beyond their existing building footprint plus abutting easements, loading, or parking areas used for vehicle auction as of January 12, 2007. Renovations or alterations within the existing building footprint are permitted; however, expansion of existing *buildings* for vehicle auction *use* is prohibited. Expansion of accessory on-site parking associated with existing vehicle auction *use* to adjoining or nearby parcels of land is allowed, subject to the *city's* approval of a site improvement plan that addresses the following issues:
- Submittal of a long-term parking management plan that shows how the *use's* parking needs are met by on-site parking and/or provisions of a long-term shared parking agreement;
 - Submittal of a traffic management plan that shows how the *applicant* intends to assure safe passage of pedestrians and vehicles in the vicinity of auction events;
 - Screening of *outdoor storage* and parking areas consistent with Kenmore Downtown Design Standard parking lot screening requirements, KMC 18.52.180;
 - Provision of sidewalks along property frontages in the public rights-of-way, or other measures deemed by the *city* to adequately protect pedestrians traveling along property frontages; and
 - Ensures that expanded accessory parking area is not used for storage.

[Ord. 07-0277 § 2; Ord. 07-0256 § 4; Ord. 03-0175 § 17.]

18.25.030

Accessory uses.

Accessory uses, when consistent with definitions and criteria in Chapters 18.10 and 18.20 KMC, are allowed as determined by the *city manager*. [Ord. 03-0175 § 17.]

18.25.040

Zoning standards.

The following zone-specific development standards in Table B apply in the downtown commercial zone:

Table B. Downtown Commercial Development Standards

STANDARD	REQUIREMENT
Base Density: <i>Dwelling Units</i> /Gross Acre	48; applies east of 68th Avenue NE
Maximum Density: <i>Dwelling Units</i> /Gross Acre with Density Bonus Incentives	72; density incentives or bonuses not required west of 68th Avenue NE
Minimum Density: <i>Dwelling Units</i> /Net Acre for Stand-Alone Multifamily Proposals	36
<i>Street Setback</i>	Minimum 10 ft. from SR-522, unless otherwise allowed through the Chapter 18.52 KMC, Downtown Design Standards; other <i>streets</i> 0 ft. Maximum 10 ft. unless otherwise allowed through Chapter 18.52 KMC, Downtown Design Standards The <i>city</i> may authorize intrusions of structural elements into the public right-of-way, including awnings, columns, bay windows, or others, through the design review, site plan review, building permit review, or right-of-way use permit processes, if such intrusions would not impede safe travel by pedestrians, solar access is not significantly diminished, and <i>city</i> liability is limited
Minimum Interior Setback	0 ft.; except when property adjoins R-1 to R-12 property, then 20 ft.
Base Height	35 ft.
Maximum Height Applicable to <i>mixed use developments</i> containing residential dwellings at a minimum 50 percent of square footage to a maximum of 75 percent square footage; or to <i>developments</i> achieving density bonus; or to <i>developments</i> providing structured parking	65 ft.
Maximum <i>Impervious Surface</i> : Percentage	90%
Pedestrian Connections	Pedestrian connections are required to be provided in accordance with Chapter 18.52 KMC, Downtown Design Standards

[Ord. 07-0267 § 3; Ord. 04-0197 § 1; Ord. 03-0175 § 17.]

18.25.050**Conflicts.**

In the event of conflict between Chapter 18.52 KMC, Downtown Design Standards, and downtown commercial zone standards, the Kenmore downtown design standards shall prevail. [Ord. 03-0175 § 17.]

Chapter 18.26**REGIONAL BUSINESS ZONE**

Sections:

18.26.020 Regional business zone -- Use allowances.

18.26.040 Regional business zone – Development standards.

18.26.060 Regional business zone – Existing legal uses.

18.26.020**Regional business zone -- Use allowances.**

The following *uses* listed in Table A are identified as permitted, conditionally permitted, special uses, or *prohibited uses* in the regional business zone:

Table A. Regional Business Zone Use Allowances

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
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EXHIBIT 1

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
Multiple Family Dwelling ¹	Bed and Breakfast Guesthouse ^{4,6}	Outdoor Performance Center	Single Detached Dwelling Unit
Community Residential Facility I ¹	Destination Resorts	Jail	Family Child-Care Home
Community Residential Facility II ¹	Theater, Drive-in Shooting Range ¹¹	Work Release Facility	Designated Manufactured Home
Senior Citizen Assisted Living ¹	Amusement Park	Public Agency Animal Control Facility	Mobile Home and Manufactured Home
Residential Accessory Uses ²	Cemetery, Columbarium or Mausoleum ¹³	Public Agency Training Facility ³³	Mobile Home Park
Home Occupation	Secondary or High School Helistop ²⁴	Nonhydroelectric Generation Facility	Dormitory
Hotel/Motel ³	Food and Kindred Products Manufacture	Oil and Gas Extraction	Home Industry
Organization	Winery/Brewery	Energy Resource Recovery Facility	Campgrounds
Hotel/Lodging Houses	Apparel and Other Textile Products Manufacture	Landfill	Recreational Vehicle Park
Park	Wood Products Manufacture, Except Furniture ²⁹	Transfer Station	Golf Facility
Trails	Furniture and Fixtures Manufacture	Wastewater Treatment Facility	Drycleaning Plants
Marina	Printing and Publishing	Municipal Water Production	Industrial Launderers
Sports Club ⁷	Leather and Leather Goods Manufacture	Airport/Heliport	Stable
Adult Entertainment Business ⁸	Computer and Office Equipment Manufacture	Transit Bus Base	Elementary School
Theater	Measuring and Controlling Instruments Manufacture	School Bus Base	Middle/Junior High School
Bowling Center	Miscellaneous Light Manufacturing ³²	Racetrack ³⁶	Warehousing and Wholesale Trade ²¹
Amusement and Recreation Services ^{9,10}	Tire Retreading	Fairground	Farm Product Warehousing, Refrigeration and Storage
Amusement Arcades	Nonhydroelectric Generation Facility ³⁴	Zoo/Wildlife Exhibit ³⁷	Log Storage
Library		Stadium/Arena	Transportation Service
Museum		Secure Community Transition Facilities ³⁹	Heavy Equipment and Truck Repair
Arboretum			Agricultural Product Sales
Conference Center			Livestock Sales
General Personal Service			Textile Mill Products
Funeral Home/Crematory			Paper and Allied Products Manufacture
Cemetery, Columbarium or Mausoleum ¹²			Chemicals and Allied Products Manufacture
Day Care I			Petroleum Refining and Related Industries
Day Care II			Rubber and Misc. Plastics Products Manufacture
Veterinary Clinic ¹⁴			Primary Metal Industries
Automotive Repair ¹⁵			Fabricated Metal Products
Automotive Service			Industrial and Commercial Machinery Manufacture
Miscellaneous Repair			
Church, Synagogue, Mosque, Temple			
Social Services ¹⁶			

EXHIBIT 1

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
<i>Kennel or Cattery</i> <i>Theatrical Production Services¹⁷</i> <i>Artist Studios</i> <i>Interim Recycling Facility</i> <i>Medical/Dental Office/Outpatient Clinic</i> <i>Nursing and Personal Care Facilities</i> <i>Hospital</i> <i>Medical/Dental Lab</i> <i>Miscellaneous Health Services</i> <i>Vocational School</i> <i>Specialized Instruction School</i> <i>School District Support Facility</i> <i>Government/Business Services Land Uses; except Warehousing and Wholesale Trade; Farm Product Warehousing; Refrigeration and Storage; Log Storage; Transportation Service; Heavy Equipment and Truck Repair; and Helistop^{18,19,20,22,23}</i> <i>Retail Land Uses, except Agricultural Product Sales and Livestock Sales^{25,26,27,28}</i> <i>Printing and Publishing³⁰</i> <i>Stone, Clay, Glass and Concrete Products Manufacture³¹</i> <i>Miscellaneous Light Manufacturing³²</i> <i>Movie Production/Distribution</i> <i>Communication Facility³⁵</i> <i>Earth Station</i>			<i>Heavy Machinery and Equipment Manufacture</i> <i>Railroad Equipment Manufacture</i> <i>Guided Missile and Space Vehicle Parts Manufacture</i> <i>Miscellaneous Transportation Vehicles Manufacture</i> <i>Motor Vehicle and Bicycle Manufacturing</i> <i>Aircraft, Ship and Boat Building</i> <i>Resource Land Uses</i> <i>Jail Farm/Camp</i> <i>Hydroelectric Generation Facility</i> <i>Soil Recycling Facility</i>

PERMITTED USE	CONDITIONAL USE	SPECIAL USE	PROHIBITED
College/University ³⁸			

¹ Only as part of a *mixed use development* subject to the conditions of Chapter 18.50 KMC, except that:

a. In the RB zone, stand-alone *townhouse* or stand-alone *apartment developments* with a base density no greater than 18 *dwelling units* per acre may be permitted; provided, the *city manager* finds that the *applicant's* property contains environmental and/or access constraints that significantly hinder commercial *development*; and further provided, that adequate access meeting *city* standards is available from other public *streets*. The development standards for the R18 zone shall be applicable to these *developments*.

²a. See 18.73.100 KMC regarding *accessory dwelling units*.

b. One single or twin engine, noncommercial aircraft shall be permitted only on *lots* that abut, or have a legal access that is not a *city* right-of-way, to a waterbody or landing field, provided there is:

(1) No aircraft sales, service, repair, charter or rental; and

(2) No storage of aviation fuel except that contained in the tank or tanks of the aircraft.

³ Except *bed and breakfast guesthouses*.

⁴ *Bed and breakfast guesthouses* shall be authorized after issuance of a *conditional use permit*, subject to the following conditions:

a. The guesthouse shall be owner-occupied;

b. The number of guestrooms shall not be greater than that authorized by the International Building and Fire Codes;

c. Parking shall be provided as required by this title; and

d. The guesthouse shall be compatible with the neighborhood character as determined by the *city manager*, and shall not create significant adverse neighborhood effects that cannot be mitigated.

⁵ Reserved.

⁶ Only if part of a *mixed use development*, and subject to the conditions of subsection 4 of this section.

⁷ Only for stand-alone *sports clubs* that are not part of a *park*.

⁸ It shall be unlawful for any person to establish an *adult entertainment business* or to relocate an *adult entertainment business* within 330 feet, measured from the property line of the parcel or parcels proposed to contain the *adult entertainment business* to the property line of the parcels containing the *use* in this subsection, without regard to intervening *structures* or objects, if any:

a. Residentially zoned property;

b. Public or *private* school for general education of any grade K through 12;

c. School bus stop;

d. Licensed *day care* or licensed preschool facility;

e. Public *park*;

f. Publicly dedicated *trail*; provided, however, that the *setback* distance shall apply only on the south side of the Burke-Gilman Trail, and that there shall be no *setback* on the north side of that trail due to the separation provided by Highway 522;

g. Sports fields or playgrounds;

h. Recreation or community center;

i. *Church, synagogue, mosque, temple*, or other house of religious worship;

j. Public library.

It shall be unlawful for any person to establish an *adult entertainment business* or to relocate an *adult entertainment business* within 500 feet of another *adult entertainment business*, measured from the property line of the parcel or parcels containing the *adult entertainment business* and the proposed *adult entertainment business*.

⁹ Excluding amusement and recreational uses classified elsewhere in this chapter.

¹⁰ *Social card games*, as defined by this title, are prohibited.

¹¹ a. Only in an enclosed *building*, and subject to the licensing provisions of KMC Title 5;

b. Indoor ranges shall be designed and operated so as to provide a healthful environment for users and operators by:

(1) Installing ventilation systems that provide sufficient clean air in the user's breathing zone;

and

(2) Adopting appropriate procedures and policies that monitor and control exposure time to airborne lead for individual users.

¹² Limited to columbariums accessory to a church, but required *landscaping* and parking shall not be reduced.

¹³ *Structures* shall maintain a minimum distance of 100 feet from property lines adjoining residential zones.

¹⁴ a. No burning of refuse or dead animals is allowed;

b. The portion of the *building* or *structure* in which animals are kept or treated shall be soundproofed. All run areas, excluding *confinement areas* for *livestock*, shall be surrounded by an eight-foot solid wall and surfaced with concrete or other impervious material; and

c. The provisions of Chapter 18.70 KMC relative to animal keeping are met.

¹⁵ Except tire retreading.

¹⁶ Except day care services and residential care.

¹⁷ Adult use facilities shall be prohibited within 660 feet of any residential zones, any other adult use facility, school, licensed *day care* centers, *parks*, community centers, public libraries or churches that conduct religious or educational classes for minors.

¹⁸ *Private stormwater management facility* is permitted except that in commercial zones or when participating in an approved shared facility drainage plan; such facilities shall be located on the same *lot* that they are designed to serve except in subdivisions or short subdivisions that set aside a separate tract for such facilities. In commercial zones or shared facilities, such facilities which are not located on the *lot* they are designed to serve shall be located on a *lot* with the same or more intensive zoning designation.

¹⁹ A *vactor waste receiving facility* is permitted, however, *vactor waste* treatment, storage and disposal shall be limited to liquid materials. Materials shall be disposed of directly into a sewer system, or shall be stored in tanks (or other covered *structures*), as well as enclosed *buildings*.

²⁰ Trucking and courier service is permitted, but is limited to self-service household moving truck or trailer rental accessory to a gasoline service station and courier services, except by air.

²¹ Except *self-service storage*.

²² Automotive parking is permitted with no dismantling or salvage of damaged, abandoned or otherwise impounded vehicles.

²³ Research, development and testing is permitted, except commercial, economic, sociological, and educational research. See *general business service/office*.

²⁴ Allowed as accessory to an allowed use.

²⁵ *Motor vehicle and boat dealers* are permitted, excluding retail sale of trucks exceeding one-ton capacity.

²⁶ Auto supply stores are permitted, but only for the sale of new or reconditioned automobile supplies.

²⁷ Eating and drinking places are permitted, but *social card games*, as defined by this title, are prohibited.

²⁸ *Auction houses* are permitted, excluding vehicle and *livestock* auctions.

²⁹ Limited to wood kitchen cabinets and millwork (excluding planing mills).

³⁰ Limited to photocopying and printing services offered to the general public.

³¹ Only within enclosed *buildings*.

³² Existing light manufacturing *uses* are permitted as “*existing legal*.” New light manufacturing *uses* require a *conditional use permit*.

³³ Except weapons armories and outdoor *shooting ranges*.

³⁴ Limited to *cogeneration* facilities for on-site use only.

³⁵ The provisions apply only to *major communication facilities*. *Minor communication facilities* shall be reviewed in accordance with the processes and standard outlined in Chapter 18.60 KMC.

³⁶ Except racing of motorized vehicles.

³⁷ Except arboretum.

³⁸ Except technical institutions. See *vocational schools*.

³⁹ *SCTF* Siting. *Secure community transition facilities* as defined in RCW 71.09.020 are permitted by *special use permit* in the regional business zone subject to the following restrictions:

a. Maximum Number of Residents. No *SCTF* shall house more than three persons, excluding resident staff.

b. Siting Criteria.

(1) *SCTFs* should be located in relationship to transportation facilities in a manner appropriate to their transportation needs.

(2) No *SCTF* shall be allowed within the following distances from the following specified *uses*, areas or zones, whether such *uses*, areas or zones are located within or outside the *city* limits:

(A) In or within 250 feet of any residential zone district, or any residentially zoned property;

(B) Adjacent to, immediately across a *street* or parking lot from, or within the line of sight of a “risk potential activity” as defined in RCW 71.09.020, as amended, including, but not limited to, public and private schools; school bus stops; licensed *day care* and licensed preschool facilities; public *parks*, publicly dedicated *trails* and sports fields; recreational and community centers; playgrounds; *church*, *synagogue*, *mosque*, *temple*; and public libraries.

(C) One mile from any existing *SCTF*, work release, prerelease, or similar facility.

(3) The distances specified in subsection (B)(39)(b)(2) of this section shall be measured by following a straight line from the nearest point of the property parcel upon which the *SCTF* is to be located, to the nearest point of the parcel of property or land use district boundary line from which the proposed land use is to be separated.

c. On-Site Facilities Required. Each *SCTF* shall provide on-site dining, on-site laundry or laundry service, and on-site *recreational facilities* to serve the residents.

d. *Special Use Permit* Application Process. A *special use permit* application for an *SCTF* shall be accompanied by the following:

(1) The siting process used for the *SCTF*, including alternative locations considered. At least three alternative locations must be considered.

(2) An analysis showing that utmost consideration was given to potential *sites* such that siting of the facility will have no unreasonable impact on any one racial, cultural, or socio-economic group, and that there will not be a resulting concentration of similar facilities in a particular neighborhood, community, jurisdiction or region.

(3) Proposed mitigation measures including the use of extensive buffering from adjacent *uses*.

(4) A detailed security plan for the facility and the residents.

(5) Proposed operating rules for the facility.

(6) A schedule and analysis of all public input solicited or to be solicited during the siting process.

18.26.040

Regional business zone -- Development standards.

The following zone-specific development standards in Table B apply in the regional business zone:

Table B. Regional Business Zone Development Standards.

	Z O N E	R B E U G S I I O N N E A S L S
STANDARDS		RB
Base Density: <i>Dwelling Unit/Acre</i>		36 du/ac ¹
Maximum Density: <i>Dwelling Unit/Acre</i>		48 du/ac ²
Minimum <i>Street Setback</i>		10 ft ³
Minimum <i>Interior Setback</i>		20 ft ⁴
Base Height ⁵		35 ft 65 ft ⁶
Maximum <i>Floor Area Ratio</i> : Square Feet		2.5/1 ⁷
Maximum <i>Impervious Surface</i> : Percentage ⁸		90%

¹ These densities are allowed only through the application of *mixed use development* standards.

² These densities may only be achieved through the application of residential density incentives or *transfer of density credits* in *mixed use developments*. See Chapter 18.80 KMC.

³ Gas station pump islands shall be placed no closer than 25 feet to *street* front lines.

⁴ Required on property lines adjoining residential zones.

⁵ Height limits may be increased when portions of the *structure/building* which exceed the base height limit provide one additional foot of *street* and *interior setback* for each foot above the base height limit, provided the maximum height may exceed 75 feet only in *mixed use developments*. Netting or fencing and support *structures* for the netting or fencing used to contain golf balls in the operation of golf courses or golf driving ranges are exempt from the additional *interior setback* requirement; provided, that the maximum height shall not exceed 75 feet.

⁶ This base height allowed only for *mixed use developments*.

⁷ The *floor area ratio* for *mixed use developments* shall conform to Chapter 18.50 KMC.

⁸ The *impervious surface* area for any *lot* may be increased beyond the total amount permitted in this chapter subject to approval of a *conditional use permit*.

18.26.060 Regional business zone – Existing legal uses.

A. Regional Business Zone – Existing Legal Uses.

Specific Land Use	RB
<i>Existing legal uses</i> as of May 8, 2003, which are not otherwise allowed as a permitted use, conditional use, or special use in KMC 18.26, or a P-suffix or special overlay district pursuant to Chapter 18.47 KMC.	P

[Ord. 03-0175 § 13.]

Chapter 18.27**PUBLIC AND SEMI-PUBLIC ZONE**

Sections:

- 18.27.010 Public and semi-public zone – Intent.
- 18.27.020 Public and semi-public zone – Use allowances.
- 18.27.030 Public and semi-public zone – Accessory uses.
- 18.27.040 Public and semi-public zone – Development standards.
- 18.27.050 Public and semi-public zone – Additional development standards.
- 18.27.060 Public and semi-public zone – Site plan review process.
- 18.27.070 Public and semi-public zone – Rezone criteria.

18.27.010**Public and semi-public zone – Intent.**

The public and semi-public zone includes properties currently owned or operated by a public entity or private institution. *Uses* in the public and semi-public zone include but are not limited to the City Hall, fire stations, library properties, education facilities, public park-and-ride lots, *utility facilities* and other institutional *uses*. The purpose of the public and semi-public zone is to recognize that public and semi-public facilities and institutions provide necessary services to the community and have their own unique set of circumstances. Factors including size, technological processes, requirements for municipal comprehensive facility planning and budgeting, capital improvement programs, and compatibility with surrounding land *uses* must be considered when developing public and semi-public facilities. New facilities should include buffers, *landscaping*, and design standards to ensure compatibility with adjacent land *uses* and zones. Sidewalks, open *public spaces* and amenities should be provided to encourage a pedestrian-friendly atmosphere and connections with public transit stops, schools, shopping, services, and *recreational facilities* where appropriate to the character of the neighborhood. The public and semi-public zone is applied to lands used for public and semi-public facilities and institutions designated as public and private facilities on the comprehensive plan land use map. *Master plans* are encouraged for *uses* in the public and semi-public zone. [Ord. 08-0293 § 2.]

18.27.020**Public and semi-public zone – Use allowances.**

A. The following uses in Table A are permitted, conditionally permitted, or prohibited in the public and semi-public zone.

Table A. Public and Semi-Public Zone Use Allowances

Permitted	Conditionally Permitted	Prohibited (or Excluded in Definitions)
Arboretum Caretaker Residence, Accessory <i>City Government Facilities</i> and Offices <i>Commuter Parking Lot</i> <i>Conference Center</i> <i>Cultural Facilities</i> Fire Facility <i>Indoor Recreational Facilities;</i> Excluding <i>Sports Clubs</i> <i>K – 12 Educational Institutions (Public or Private)</i> <i>Open Space</i> <i>Outdoor Recreational Facilities</i> <i>Parks</i> Police Facility <i>Private</i> <i>Stormwater Management Facility</i> <i>Public Agency or Utility Office:</i> <i>Noncity</i> <i>Trails</i> <i>Utility Facility</i>	<i>Communication Facility, Major and Minor: Only When on Building: Prohibit Standalone</i> Maintenance Yards or Facilities, Accessory <i>Outdoor Performance Center</i> Colleges/Universities	<i>Jail</i> <i>Work Release Facility</i> <i>Landfill</i> <i>Transfer Station</i>

Permitted	Conditionally Permitted	Prohibited (or Excluded in Definitions)

B. Classified land *uses* not listed or prohibited in Table A may be allowed through completion of a site plan review process pursuant to KMC 18.27.060 and Chapter 18.105 KMC.

C. *Uses* Established by *Master Plan*. Adopted *master plans* that specify *uses* include the following:

1. Bastyr University Master Plan, December 2009, approved by *city* Ordinance 09-0304. [Ord. 09-0304 § 5 (Exh. C); Ord. 08-0293 § 2.]

18.27.030

Public and semi-public zone – Accessory uses.

Accessory uses, when consistent with definitions and criteria in Chapters 18.10 and 18.20 KMC, are allowed as determined by the *city manager*. [Ord. 08-0293 § 2.]

18.27.040

Public and semi-public zone – Development standards.

A. Specific zone-based development standards for the public and semi-public zone in Table B shall apply to the public and semi-public zone as follows:

Table B. Public and Semi-Public Zone Development Standards

Standard	Requirement
Maximum Density: <i>Dwelling Units/Gross Acre</i>	0.10 ¹
Minimum Lot Size	4,500 sq. ft. ²
Minimum Lot Width	35 ft.
Minimum <i>Street Setback</i>	0 ft., 10 ft., or 20 ft. ³
Minimum <i>Interior Setback</i>	0 ft., 5 ft., or 20 ft. ³
Base Height	35 ft. ⁴

Standard	Requirement
Maximum <i>Impervious Surface</i> : Percentage	70%, 90% ⁵

- ¹ *Dwelling unit, single detached uses*: limited to one *single detached dwelling unit* per existing legal lot as of December 16, 2008.
- ² The minimum lot size may be reduced if the *city manager* determines *use* on the *site* is compatible with adjoining property, does not impair *development* of adjoining property and does not adversely affect the public health, safety or welfare.
- ³ a. *Street setbacks*: the minimum *street setback* varies depending on the adjacent zoning:
 (1) Zero feet if adjacent zoning is downtown commercial or downtown residential.
 (2) Twenty feet if adjacent zoning is R-1 to R-6.
 (3) Ten feet in all other cases.
- b. *Interior setbacks*: zero feet if adjacent zoning is downtown commercial or downtown residential; 20 feet if adjacent zoning is R-1 to R-6; five feet in all other cases.
- ⁴ Height limits may be increased when portions of the *building* which exceed the base height limit provide one additional foot of *street* and *interior setback* for each foot above the base height limit, provided the maximum height does not exceed 75 feet. Properties abutting downtown commercial or downtown residential zones or regional business zones may achieve the heights allowed by those abutting zones if meeting conditions for the maximum height as expressed in those abutting zones.
- ⁵ a. Ninety percent if abutting properties are zoned downtown commercial or downtown residential or regional business. Seventy percent in all other cases.
- b. Measures to reduce *impervious surfaces* and to promote *low impact development* shall be employed where feasible, consistent with adopted Kenmore stormwater management standards.
- B. Standards may be varied through a *variance* process pursuant to Chapter 19.25 KMC and KMC 18.115.030, or through a site plan review process in KMC 18.27.060. [Ord. 08-0293 § 2.]

18.27.050

Public and semi-public zone – Additional development standards.

A. Where the public and semi-public zone abuts a residential zone, the *city manager* may require a *landscaping* screen pursuant to Chapter 18.35 KMC in order to screen views of parking lots, accessory *buildings*, or other features within the public and semi-public zone. Aesthetic safety, security, and maintenance factors shall be considered when considering the type of screen to be employed.

B. Accessory *buildings* and other *structures* shall be *clustered* together to the greatest extent feasible in order to reduce lengthy *buildings* and *impervious surfaces*. Measures to reduce *impervious surfaces* and to promote *low impact development* shall be employed where feasible, consistent with adopted Kenmore stormwater management standards.

C. Lighting shall be provided for safety of traffic and pedestrian circulation on the *site*. It shall be designed to minimize direct illumination of abutting properties and adjacent *streets*. The lighting standards of KMC 18.52.140 shall be met.

D. Properties abutting lands designated as downtown commercial, downtown residential, or regional business shall be subject to design standards of Chapter 18.52 KMC. [Ord. 08-0293 § 2.]

18.27.060

Public and semi-public zone – Site plan review process.

Project sponsors in the public and semi-public zone shall undergo site plan review for purposes of establishing classified land uses or activities not otherwise established in KMC 18.27.020 as permitted or conditionally permitted, in accordance with Chapter 18.105 KMC. Site plan review shall not be used to establish *prohibited uses* listed in KMC 18.27.020. A site plan review shall be processed consistent with Chapter 18.105 KMC. [Ord. 08-0293 § 2.]

18.27.070**Public and semi-public zone – Rezone criteria.**

A. The public and semi-public zone may be established by a Type 4 land use decision per Chapter 19.25 KMC, where the zone *reclassification* implements the public and private facilities comprehensive plan designation.

B. If a comprehensive plan amendment is required to establish the public and private facilities land use designation, and is proposed to be implemented by the public and semi-public zone, such comprehensive plan and zoning amendments shall be processed in accordance with Chapters 19.20 and 19.25 KMC.

C. Properties that are designated public and semi-public and that are less than one acre in size may be reclassified to the most prevalent zoning district surrounding the property through consideration of the Type 4 permit process, provided the requested zoning classification does not conflict with the overall intent of the public and private facilities comprehensive plan land use designation. [Ord. 08-0293 § 2.]

Chapter 18.28**PARKS ZONE**

Sections:

- 18.28.010 Parks zone – Intent.
- 18.28.020 Parks zone – Use allowances.
- 18.28.030 Parks zone – Accessory uses.
- 18.28.040 Parks zone – Development standards.
- 18.28.050 Parks zone – Additional development standards.
- 18.28.060 Parks zone – Site plan review process.
- 18.28.070 Parks zone – Rezone criteria.

18.28.010**Parks zone – Intent.**

The parks zone provides for *parks*, recreational, *open space*, and resource *uses* within publicly owned lands, and establishes standards that allow for such *uses* to continue or be established while ensuring compatibility with surrounding *uses*. Secondary *uses* include utilities. The parks zone is applied to lands used for public *parks*, recreation, and *open space* purposes and designated as public and private facilities on the comprehensive plan land use map. *Master plans* are encouraged for *park uses*. [Ord. 08-0293 § 2; Ord. 06-0254 § 4.]

18.28.020**Parks zone – Use allowances.**

A. The following *uses* in Table A are permitted, conditionally permitted, or prohibited in the parks zone.

Table A. Parks Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED (OR EXCLUDED IN DEFINITIONS)
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PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED (OR EXCLUDED IN DEFINITIONS)
Arboretum Boat launch Caretaker Residence, Accessory ³ City Government Facilities and Offices Cultural Facilities Dock Dwelling Unit, Single Detached ¹ Indoor Recreational Facilities: Excluding Sports Clubs Mobile Food Vendor, Accessory ² Open Space Outdoor Recreational Facilities Parks Private Stormwater Management Facility Trails Utility Facility Wildlife Shelter		Service of alcoholic beverages, except by temporary use permit per Chapter 18.100 KMC or except by temporary usage of facilities in accordance with Chapter 9.40 KMC for city facilities

¹ One dwelling allowed per existing legal lot as of December 11, 2006.

² Mobile food vendor requirements:

- No permanent fencing, walls, or other structures are installed which hinder removal of the structure from the site;
- No required parking stall shall be blocked or unusable as a result of the mobile vendor;
- Safe ingress and egress shall be maintained. Visibility for transportation and pedestrian access shall be maintained;
- The limited duration of the mobile vendor shall be established as a condition of approval of any applicable permits; if accessory to a use, such operation is removed daily at the time of or prior to the close of business hours;
- A sign permit is required for exterior signage in accordance with the sign code, Chapter 18.42 KMC.

³ Attached dwellings may only be allowed as a reuse of a surplus nonresidential facility subject to Chapter 18.50 KMC.

B. Classified land uses not listed or prohibited in Table A may be allowed through completion of a site plan review process pursuant to KMC 18.28.060 and Chapter 18.105 KMC. Proponents of projects that include land uses of different sizes or dimensions than those allowed in Table A may also request allowance of such uses pursuant to KMC 18.28.060 and Chapter 18.105 KMC. [Ord. 08-0293 § 2; Ord. 06-0254 § 4.]

18.28.030

Parks zone – Accessory uses.

Accessory uses, when consistent with definitions and criteria in Chapters 18.10 and 18.20 KMC, are allowed as determined by the city manager. [Ord. 08-0293 § 2; Ord. 06-0254 § 4.]

18.28.040

Parks zone – Development standards.

A. Specific zone-based development standards for the parks zone in Table B shall apply to the parks zone as follows:

Table B. Parks Zone Development Standards

STANDARD	REQUIREMENT
Maximum Density: <i>Dwelling Units</i> /Gross Acre	0.10 ¹
Minimum Lot Size	4,500 sq. ft. ²
Minimum Lot Width	35 ft.
Minimum <i>Street Setback</i>	0 ft., 10 ft., or 20 ft. ³
Minimum Interior <i>Setback</i>	5 ft. or 20 ft. ³
Base Height	35 ft. ⁴
Maximum <i>Impervious Surface</i> : Percentage	2 – 30% ⁵

¹ *Dwelling unit, single detached uses*: limited to one *single detached dwelling unit* per existing legal lot as of December 11, 2006. Caretaker residence, accessory: when attached may only be allowed as a reuse of a surplus nonresidential facility subject to Chapter 18.50 KMC.

² The minimum lot size may be reduced if the *city manager* determines *use* on the *site* is compatible with adjoining property, does not impair *development* of adjoining property and does not adversely affect the public health, safety or welfare.

³ a. *Street setbacks*: the minimum *street setback* varies depending on the adjacent zoning:

- (1) Zero feet if adjacent zoning is downtown commercial or residential.
- (2) Twenty feet if adjacent zoning is R-1 to R-6.
- (3) Ten feet in all other zones.

b. Interior *setbacks*: 20 feet if adjacent zoning is R-1 to R-6; five feet in all other zones.

⁴ Height limits may be increased when portions of the *building* which exceed the base height limit provide one additional foot of *street* and interior *setback* for each foot above the base height limit, provided the maximum height does not exceed 75 feet.

⁵ a. For the purposes of this zone, paved *trails* are not considered *impervious surface*; provided, that *city* stormwater and other applicable requirements are met.

b. The following maximum *impervious surface* standards apply based on the size of the *park* property;

- (1) One hundred acres or greater: five percent.
- (2) Thirty to 100 acres: 10 percent.
- (3) Less than 30 acres: 30 percent.

c. Measures to reduce *impervious surfaces* and to promote *low impact development* shall be employed where feasible, consistent with adopted Kenmore stormwater management standards.

B. Standards may be varied through a *variance* process pursuant to Chapter 19.25 KMC and KMC 18.115.030, or through a site plan review process in KMC 18.28.060. [Ord. 08-0293 § 2; Ord. 06-0254 § 4.]

18.28.050

Parks zone – Additional development standards.

A. Where the parks zone abuts a residential zone, the *city manager* may require a *landscaping* screen pursuant to Chapter 18.35 KMC in order to screen views of parking lots, accessory *buildings*, or other features within the parks zone. Aesthetic, safety, security, and maintenance factors shall be considered when considering the type of screen to be employed.

B. Accessory *buildings* and other *structures* shall be *clustered* together to the greatest extent feasible in order to reduce lengthy *buildings* and *impervious surfaces*. Measures to reduce *impervious surfaces* and to promote *low impact development* shall be employed where feasible, consistent with adopted Kenmore stormwater management standards.

C. Lighting shall be provided for safety of traffic and pedestrian circulation on the *site*. It shall be designed to minimize direct illumination of abutting properties and adjacent *streets*. The lighting standards of KMC 18.52.140 shall be met. The *city manager* shall have the authority to waive the requirement to provide lighting. [Ord. 08-0293 § 2; Ord. 06-0254 § 4.]

18.28.060

Parks zone – Site plan review process.

Project sponsors in the parks zone shall undergo site plan review for purposes of establishing classified land *uses* or activities not otherwise established in KMC 18.28.020 as permitted or conditionally permitted, in accordance with Chapter 18.105 KMC. Site plan review shall not be used to establish *prohibited uses* listed in KMC 18.28.020. A site plan review shall be processed consistent with Chapter 18.105 KMC. [Ord. 08-0293 § 2; Ord. 06-0254 § 4.]

18.28.070

Parks zone – Rezone criteria.

A. The parks zone may be established by a Type 4 land use decision per Chapter 19.25 KMC, where the zone *reclassification* implements the public and private facilities comprehensive plan designation.

B. If a comprehensive plan amendment is required to establish the public and private facilities land use designation, and is proposed to be implemented by the parks zone, such comprehensive plan and zoning amendments shall be processed in accordance with Chapters 19.20 and 19.25 KMC. [Ord. 08-0293 § 2; Ord. 06-0254 § 4.]

Chapter 18.28A

GOLF COURSE ZONE

Sections:

- 18.28A.010 Golf course zone – Intent.
- 18.28A.020 Golf course zone – Use allowances.
- 18.28A.030 Golf course zone – Accessory uses.
- 18.28A.040 Golf course zone – Development standards.
- 18.28A.050 Golf course zone – Additional development standards.
- 18.28A.060 Golf course zone – Site plan review process.
- 18.28A.070 Golf course zone – Rezone criteria.

18.28A.010

Golf course zone – Intent.

The golf course zone provides for golf course activities and the protection and preservation of *open space* qualities of lands that are developed for golf course *uses*. The district allows for a mix of active golf-related *recreational facilities* and supporting infrastructure. *Master plans* are encouraged for recreational *uses*. The golf course zone is applied to lands used for golf course related purposes and designated as public and private facilities on the comprehensive plan land use map. [Ord. 08-0293 § 2.]

18.28A.020

Golf course zone – Use allowances.

A. The following *uses* in Table A are permitted, conditionally permitted, or prohibited in the golf course zone.

Table A. Golf Course Zone Use Allowances

Permitted	Conditionally Permitted	Prohibited (or Excluded in Definitions)
Caretaker Residence, Accessory Clubhouse <i>Conference Center, Accessory</i> <i>Cultural Facilities</i> Driving Range Eating and Drinking Places, Accessory <i>Golf Course Facility</i> Maintenance Facility, Accessory <i>Open Space</i> <i>Private Stormwater Management Facility</i> <i>Recreational Facilities, Indoor</i> <i>Recreational Facilities, Outdoor</i> <i>Retail Sales, Indoor, Accessory</i> <i>Trails</i> <i>Utility Facility</i> <i>Wildlife Shelter</i>	<i>Communication Facility, Major and Minor; Only When on Building; Prohibit Standalone</i> <i>Outdoor Performance Center</i>	Residential Dwellings, Nonaccessory

B. Classified land uses not listed or prohibited in Table A may be allowed through completion of a site plan review process pursuant to KMC 18.28A.060 and Chapter 18.105 KMC. Proponents of projects that include land uses allowed as accessory permitted or accessory conditionally *permitted uses* in Table A may also request allowance of such uses as primary uses pursuant to KMC 18.28A.060 and Chapter 18.105 KMC. [Ord. 08-0293 § 2.]

18.28A.030

Golf course zone – Accessory uses.

Accessory uses, when consistent with definitions and criteria in Chapters 18.10 and 18.20 KMC, are allowed as determined by the *city manager*. [Ord. 08-0293 § 2.]

18.28A.040

Golf course zone – Development standards.

A. Specific zone-based development standards for the golf course zone in Table B shall apply to the golf course zone as follows:

Table B. Golf Course Zone Development Standards

Standard	Requirement
Maximum Density: <i>Dwelling Units</i> /Gross Acre	0.10 ¹
Minimum Lot Size	4,500 sq. ft. ²
Minimum Lot Width	35 ft.
Minimum <i>Street Setback</i>	20 ft. or 30 ft. ³
Minimum Interior <i>Setback</i>	10 ft. or 20 ft. ³
Base Height	35 ft. ⁴
Maximum <i>Impervious Surface</i> : Percentage	10% ⁵

¹ *Dwelling unit, single detached uses*: limited to one *single detached dwelling unit* per existing legal lot as of December 16, 2008.

² The minimum lot size may be reduced if the *city manager* determines *use* on the *site* is compatible with adjoining property, does not impair *development* of adjoining property and does not adversely affect the public health, safety or welfare.

³ a. *Street setbacks*: the minimum *street setback* varies depending on the adjacent zoning:
 (1) Thirty feet if adjacent zoning is R-1 to R-6.
 (2) Twenty feet in all other cases.
 b. *Interior setbacks*: 20 feet if adjacent zoning is R-1 to R-6; ten feet in all other cases.
 c. Netting or fencing and support *structures* for the netting or fencing used to contain golf balls in the operation of golf courses or golf driving ranges are exempt from the interior *setback* requirements; provided, that the maximum height shall not exceed 75 feet.

⁴ Height limits may be increased when portions of the *building* which exceed the base height limit provide one additional foot of *street* and interior *setback* for each foot above the base height limit, provided the maximum height does not exceed 75 feet.

⁵ a. For the purposes of this zone, paved *trails* are not considered *impervious surface*; provided, that *city* stormwater and other applicable requirements are met.

b. Measures to reduce *impervious surfaces* and to promote *low impact development* shall be employed where feasible, consistent with adopted Kenmore stormwater management standards.

B. Standards may be varied through a *variance* process pursuant to Chapter 19.25 KMC and KMC 18.115.030, or through a site plan review process in KMC 18.28A.060. [Ord. 08-0293 § 2.]

18.28A.050

Golf course zone – Additional development standards.

A. Where the golf course zone abuts a residential zone, the *city manager* may require a *landscaping* screen pursuant to Chapter 18.35 KMC in order to screen views of parking lots, accessory *buildings*, or other features within the golf course zone. Aesthetic, safety, security, and maintenance factors shall be considered when considering the type of screen to be employed.

B. Accessory *buildings* and other *structures* shall be *clustered* together to the greatest extent feasible in order to reduce lengthy *buildings* and *impervious surfaces*. Measures to reduce *impervious surfaces* and to promote *low impact development* shall be employed where feasible, consistent with adopted Kenmore stormwater management standards.

C. Lighting shall be provided for safety of traffic and pedestrian circulation on the *site*. It shall be designed to minimize direct illumination of abutting properties and adjacent *streets*. The lighting standards of KMC 18.52.140 shall be met. The *city manager* shall have the authority to waive the requirement to provide lighting. [Ord. 08-0293 § 2.]

18.28A.060

Golf course zone – Site plan review process.

Project sponsors in the golf course zone shall undergo site plan review for purposes of establishing classified *land uses* or activities not otherwise established in KMC 18.28A.020 as permitted or conditionally permitted, in accordance with Chapter 18.105 KMC. Site plan review shall not be used to establish *prohibited uses* listed in KMC 18.28A.020. A site plan review shall be processed consistent with Chapter 18.105 KMC. [Ord. 08-0293 § 2.]

18.28A.070

Golf course zone – Rezone criteria.

A. The golf course zone may be established by a Type 4 land use decision per Chapter 19.25 KMC, where the zone *reclassification* implements the public and private facilities comprehensive plan designation.

B. If a comprehensive plan amendment is required to establish the public and private facilities land use designation, and is proposed to be implemented by the golf course zone, such comprehensive plan and zoning amendments shall be processed in accordance with Chapters 19.20 and 19.25 KMC. [Ord. 08-0293 § 2.]

Chapter 18.30

DEVELOPMENT STANDARDS – GENERAL

Sections:

18.30.010	Purpose.
18.30.020	Density calculations – Allowable dwelling units, lots or floor area.
18.30.040	Fences
18.30.050	Height - Measurement methods.
18.30.060	Height – Exceptions to limits.
18.30.070	Light and glare.
18.30.080	Lot area – Prohibited reduction.
18.30.090	Lot area – Minimum lot area for construction.
18.30.100	Lot divided by zone boundary.
18.30.110	Lot width - Measurement methods.
18.30.115	Public nuisance – Prohibited activities.

- 18.30.130 Recreation space - On-site areas.
- 18.30.140 Recreation space - Maintenance.
- 18.30.150 Recreation space - Financial guarantees.
- 18.30.155 Recreational vehicles.
- 18.30.160 Setbacks - Measurement.
- 18.30.170 Setbacks – Specific building or use.
- 18.30.190 Setbacks – Modifications.
- 18.30.200 Setbacks – From regional utility corridors.
- 18.30.210 Setbacks – From alley.
- 18.30.220 Setbacks – Required modifications.
- 18.30.230 Setbacks – Projections and structures allowed.
- 18.30.240 Sight distance requirements.
- 18.30.250 Storage space and collection points for trash and recyclables.
- 18.30.260 Trail corridors – Applicability.
- 18.30.270 Trail corridors – Design standards.
- 18.30.280 Trail corridors – Maintenance of trail corridors/improvements.

18.30.010**Purpose.**

The purpose of this chapter is to establish basic standards for *development* relative to residential density, dimensional requirements and specific rules for general application. The standards and rules are established to provide flexibility in project design, maintain privacy between adjacent *uses* and meet the on-site recreation needs of project residents.

[Ord. 98-0026 §§ 1, 2 (KCC 21A.12.010).]

18.30.020**Density Calculations – Allowable dwelling units, lots or floor area.**

Permitted number of *dwelling units*, or *lots* or floor area shall be determined as follows:

A. The allowed number of *dwelling units* or *lots* (base density) shall be computed by multiplying the *site area* by the applicable residential base density number;

B. The maximum density (unit or *lot*) limits shall be computed by adding the bonus or transfer units authorized by Chapter 18.80 KMC to the base units computed under subsection (A) of this section;

C. The allowed floor area shall be computed by applying the *floor area ratio* to the project *site area*; and

D. Except for short subdivisions of four or fewer *lots*, when density calculations result in a fraction, the fraction shall be rounded to the nearest whole number as follows:

1. Fractions of 0.50 or above shall be rounded up; and
2. Fractions below 0.50 shall be rounded down.

E. When density calculations result in a fraction, the permitted number of *lots* derived from short subdivisions of four or fewer *lots* shall be rounded as follows:

1. For a short subdivision resulting in less than two *lots* (base density) as described in subsection (A) of this section, fractions of 0.85 shall be rounded up to the nearest whole number and fractions below 0.85 shall be rounded down.

2. For a short subdivision resulting in more than two but less than three *lots* (base density) as described in subsection (A) of this section, fractions of 0.75 shall be rounded up to the nearest whole number and fractions below 0.75 shall be rounded down.

3. For a short subdivision resulting in more than three *lots* but less than four *lots* (base density) as described in subsection A of this section, fractions of 0.60 shall be rounded up to the nearest whole number and fractions below 0.60 shall be rounded down. [Ord. 08-0289 § 2; Ord. 98-0026 §§ 1, 2 (KCC 21A.12.070).]

18.30.040**Fences.**

Fences are permitted as follows:

A. *Fences* exceeding a height of eight feet shall comply with the applicable *street* and interior *setbacks* of the zone in which the property is located.

B. *Fences* located on a rockery, *retaining wall*, or *berm* within a required *setback* area are permitted subject to the following requirements:

1. In R-1 through R-18, P and GC zones:

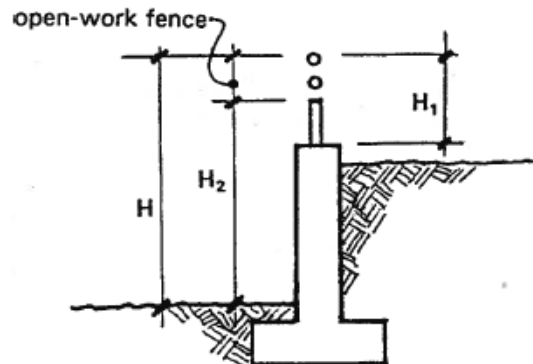
a. The total height of the *fence* and the rockery, *retaining wall* or *berm* upon which the *fence* is located shall not exceed a height of 12 feet. This height shall be measured from the top of the *fence* to the ground on the low side of the rockery, *retaining wall* or *berm*; and

b. The total height of the *fence* itself, measured from the top of the *fence* to the top of the rockery, *retaining wall* or *berm*, shall not exceed eight feet.

2. In the R-24, R-48, DR, PSP, and commercial zones, the height of the *fence*, measured from the top of the *fence* to the top of the rockery, *retaining wall* or *berm*, shall not exceed eight feet.

3. Any portion of the *fence* above a height of eight feet, measured to include both the *fence* and the rockery, *retaining wall*, or *berm* (as described in subsection B.1.a of this section), shall be an *open-work fence*.

C. *Fences* located on a rockery, *retaining wall* or *berm* outside required *setback* areas shall not exceed the building height for the zone, measured in accordance with the standards established in the *city building code*, KMC Title 15.

RETAINING WALL WITH FENCE IN SETBACK

H maximum of 12' in R-1 through R-18, P and GC zones

H₁ maximum of 8' in all zones

H₂ maximum of 8' for wall plus solid-work fence in all zones

D. Electric *fences* shall:

1. Be permitted in all zones; provided, that when placed within R-4 through R-48 zones, additional fencing or other barriers shall be constructed to prevent inadvertent contact with the electric *fence* from abutting property;

2. Comply with the following requirements:

a. An electric *fence* using an interrupted flow of current at intervals of about one second on and two seconds off shall be limited to 2,000 volts at 17 milliamps;

b. An electric *fence* using continuous current shall be limited to 1,500 volts at seven milliamps;

c. All electric *fences* in the R-4 through R-48 zones shall be posted with permanent *signs* a minimum of 36 square inches in area at 50-foot intervals stating that the *fence* is electrified; and

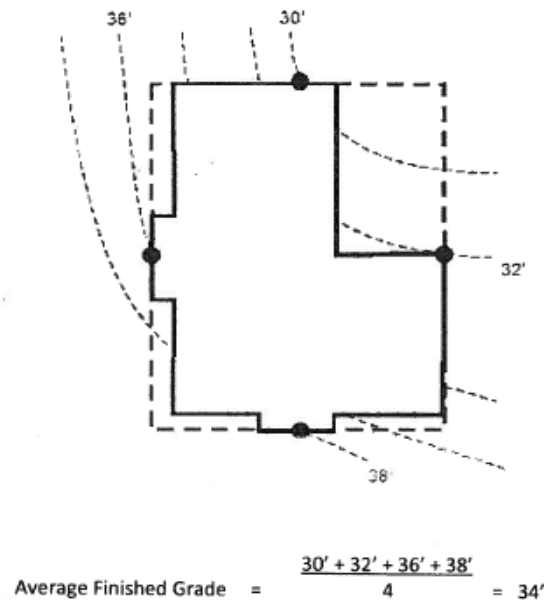
d. Electric *fences* sold as a complete and assembled unit can be installed by an owner if the controlling elements of the installation are certified by an A.N.S.I. approved testing agency; and

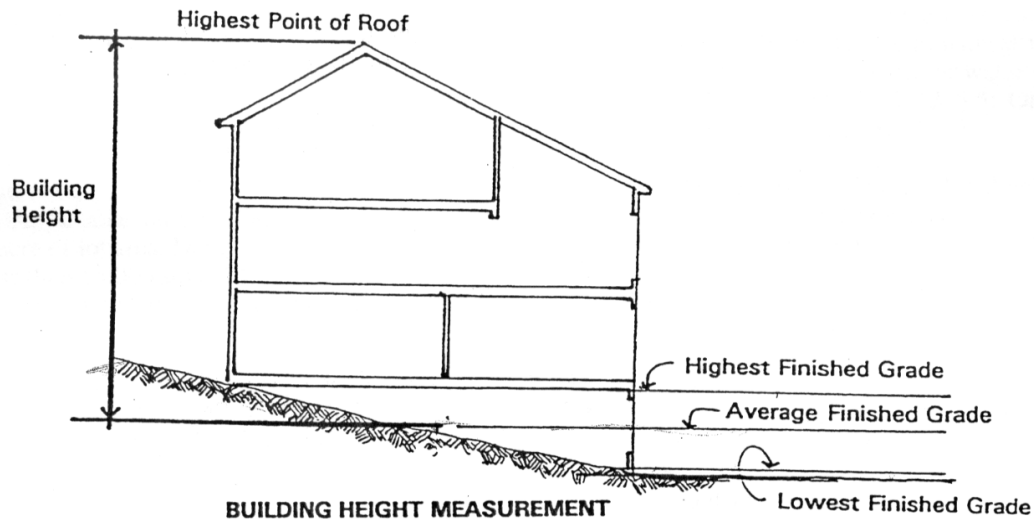
E. Except as specifically required for the necessary security related to a nonresidential *use*, no barbed or razor-wire *fence* shall be located in any R-4 through R-48 zone. [Ord. 98-0026 §§ 1, 2 (KCC 21A.14.220).]

18.30.050**Height - Measurement method.**

A. Building 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 ground elevations taken at the midpoint of each side of the square or rectangle; provided, that the measured ground elevations do not include *berms*.

B. When a proposed building height is within 1 foot of the maximum allowable height, the *applicant* shall provide a survey prior to final inspection, performed by a licensed surveyor, demonstrating compliance with the *city's* height regulations.



**18.30.060****Height – Exceptions to limits.**

The following *structures* may be erected above the height limits:

- A. Roof *structures* housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for *building* operation and maintenance; and
- B. Fire or parapet walls, skylights, flagpoles, chimneys, smokestacks, church steeples, crosses, spires, communication transmission and receiving *structures*, utility line towers and poles, and similar *structures*.

Development in the CB zone (see KMC 18.23.040) is specifically excluded from the exceptions to height limitations of this section. All height provisions and exceptions to height limitations for the CB zone are found in KMC 18.23.040. [Ord. 08-0291 § 2; Ord. 98-0026 §§ 1, 2 (KCC 21A.12.180).]

18.30.070**Light and Glare.**

A. To minimize adverse impacts of lighting on motorists, pedestrians and the surrounding area, the following site standards apply:

1. Exterior lighting shall be shielded or recessed so that direct glare and reflections are contained within the boundaries of the property and directed downward and away from adjoining properties, *streets* and public walkways.
2. Lighting shall not blink, flash, or be of unusually high intensity or brightness.

B. In no case shall more than one foot-candle power of light five feet aboveground cross a property line in a residential zone as measured by a light meter meeting the American National Standards Institute specifications for such instruments.

C. The owner of the property on which the light source is located shall bear the burden of proof that exterior lighting on their property meets these requirements, including the expense of a light meter reading. The meter reading shall be taken by a person deemed qualified by the *city manager*.

D. To reduce light and glare impacts, the *city manager* is authorized to require mitigating measures including, but not limited to, removal of the light; limiting the area and intensity of illumination; limiting the location or angle of

illumination; limiting the hours of illumination; and/or requiring landscaping.

E. Residential and commercial holiday lighting; overhead street lighting and warning, emergency, or traffic signals; and lighting associated with permitted *signs* as described in KMC Chapter 18.42 are exempt from the provisions of this section.

18.30.080

Lot area – Prohibited reduction.

Any portion of a *lot* that was used to calculate compliance with the standards and regulations of this title shall not be subsequently subdivided or segregated from such *lot*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.12.090).]

18.30.090

Lot area – Minimum lot area for construction.

Except as provided for *nonconformances* in Chapter 18.100 KMC, in the R1, R4 and R6 zones no construction shall be permitted on a *lot* that contains an area of less than 2,500 square feet or that does not comply with the applicable minimum lot width, except for a legal *lot* as determined through KMC 17.15.070 created prior to February 2, 1995 that since February 2, 1995 has not simultaneously been owned by the owner of a contiguous *lot(s)*. [Ord. 08-0293 § 2; Ord. 04-0213 § 6; Ord. 98-0026 §§ 1, 2 (KCC 21A.12.100).]

18.30.100

Lot divided by zone boundary.

When a *lot* is divided by a zone boundary, the following rules shall apply:

A. When a *lot* contains both residential and nonresidential zoning, the zone boundary between the zones shall be considered a lot line for determining permitted building height and required *setbacks* on the *site*;

B. When a *lot* contains residential zones of varying density:

1. Any residential density transfer within the *lot* shall be allowed from the portion with the lesser residential density to that of the greater residential density;

2. Residential density transfer from the higher density zone to the lower density zone may be allowed only when:

a. The units transferred from any R-12 to R-48 zoned portion of the *lot* are maintained in an attached dwelling unit configuration on the lower density portion receiving such units,

b. The transfer does not reduce the minimum density achievable on the *lot*,

c. The transfer enhances the efficient use of needed infrastructure,

d. The transfer does not result in significant adverse impacts to the low density portion of the *lot*,

e. The transfer contributes to preservation of *critical areas*, wildlife corridors, or other natural features, and

f. The transfer does not result in significant adverse impacts to adjoining lower density properties;

3. Compliance with these criteria shall be evaluated during review of any *development proposals* in which such a transfer is proposed; and

C. *Uses* on each portion of the *lot* shall only be those permitted in each zone. [Ord. 98-0026 §§ 1, 2 (KCC 21A.12.200).]

18.30.110

Lot width - Measurement method.

Lot width shall be measured by scaling a circle of the applicable diameter within the boundaries of the *lot*; provided, that an access easement, access tract, access panhandle and building *setbacks* shall not be included within the circle area. See KMC 17.20.120(C) for additional standards related to *lot* configuration.

18.30.115

Public nuisance – Prohibited activities.

It is unlawful for any person to keep, maintain or deposit on any property in the *city* a public nuisance including, but not limited to, the following:

A. Open storage of rubbish or junk including, but not limited to, refuse, garbage, scrap metal or lumber, concrete, asphalt, tin cans, tires and piles of earth, not including compost bins.

B. Combustible material likely to become easily ignited or debris resulting from any fire and which constitutes a fire hazard, as defined in the Fire Code as adopted by the *city* pursuant to KMC 15.10.010.

C. *Abandoned vehicles, wrecked, dismantled or inoperative vehicles* or remnant parts thereof. [Ord. 98-0026 §§ 1, 2 (KCC 21A.32.230).]

18.30.130

Recreation space - On-site areas.

A. Single-family detached subdivisions, *apartment, townhouse* and *mixed use development*, of more than nine units in the R-4 through R-48 and DR zones and stand-alone *townhouse developments* in the NB or DC zone of more than nine units, excluding age restricted *senior citizen* housing, shall provide a common recreational open space area on-site, except when facilities are available to the public that meet all of the following requirements:

1. Are developed as a county, municipal or regional *park*;
2. Are located within one-quarter-mile walking distance; and
3. Are accessible without crossing any arterial *street*.

B. Common recreational open space area designs shall comply with the following requirements:

1. Provide at least 45 square feet per *dwelling unit*, with a minimum size of 450 square feet;
2. Be adjacent to main pedestrian paths or near building entrances;
3. Be suitable and safe as a play space for children; and

4. Be graded and landscaped to encourage use by occupants of the *development*, including children. The *applicant* may provide permanent amenities (seating, picnic tables, play equipment, etc.). If play equipment is proposed, the equipment shall meet, at a minimum, the Consumer Product Safety Standards for equipment, soft surfacing and spacing.

C. Subdivisions with common recreational open space areas which are contained within the on-site stormwater tracts, but are located outside of the 100-year design water surface, may be credited for up to 50 percent of the required square footage of the on-site recreation space requirement on a foot-per-foot basis, subject to the following criteria:

1. The stormwater tract and any on-site recreation tract shall be contiguously located. At final plat recording, contiguous stormwater and recreation tracts shall be recorded as one tract and dedicated to the homeowners' association or other organization as approved by the *city manager*;

2. The stormwater facilities shall be constructed to meet the following conditions:

a. The side slope of the stormwater facilities shall not exceed 33 percent unless slopes are existing, natural and covered with *vegetation*;

b. A bypass system or an *emergency* overflow pathway shall be designed to handle flow exceeding the facility design and located so that it does not pass through active recreation areas or present a safety hazard;

c. The stormwater facilities shall be landscaped and developed for passive recreation opportunities such as *trails*, picnic areas and aesthetic viewing; and

d. The stormwater facilities shall be designed so they do not require fencing pursuant to the Surface Water Design Manual.

D. In the case of joint use of the tract for stormwater facilities and recreation space, the *city* shall be responsible for maintenance of the stormwater facilities only and will require a drainage easement for that purpose.

E. A recreational open space plan shall be submitted to the *department* and reviewed and approved with engineering plans.

1. The recreational open space plan shall address all portions of the *site* which will be used to meet recreation space requirements of this section (including stormwater facilities). The plan shall show dimensions, finished grade, landscaping and improvements, as required by the *city manager*, to demonstrate that the requirements of this section have been met.

2. If engineering plans indicate that the on-site stormwater facilities or stormwater tract must be increased in size from that shown in preliminary approvals, the recreation plans must show how the required minimum recreation space pursuant to subsection (A) of this section will be met. [Ord. 03-0175 § 27; Ord. 01-0109 Ch. III, § 4(C); Ord. 00-0097 § 1(C); Ord. 98-0026 §§ 1, 2 (KCC 21A.14.190).]

18.30.140

Recreation space - Maintenance.

Maintenance of any common recreational open space provided under KMC 18.30.130 shall be the responsibility of the owner(s) or other separate entity capable of long-term maintenance and operation in a manner acceptable to the *department*. [Ord. 00-0097 § 1(D); Ord. 98-0026 §§ 1, 2 (KCC 21A.14.200).]

18.30.150**Recreation space - Financial guarantees.**

Financial guarantees for construction of recreation facilities required by KMC 18.30.130 shall be provided consistent with the provisions of KMC Title 21. [Ord. 00-0097 § 1(E).]

18.30.155**Recreational vehicles.**

A. A single *recreational vehicle* (RV) may be occupied for temporary lodging for up to three weeks on a *lot* already containing another *dwelling unit* with the permission of the property owner subject to the following conditions:

1. No more than two three-week periods shall be permitted per calendar year per lot and the two periods shall be separated by a minimum of 30 calendar days;
2. Such use shall not create a public health hazard or nuisance;
3. The RV shall be parked on an approved parking pad;
4. No business occupation shall be conducted in said RV;
5. The RV shall not use generators.

B. An RV may be occupied for temporary lodging for up to 45 consecutive days if connected to approved utilities including potable water and wastewater disposal and approved through a temporary use permit.

1. The temporary use permit issued must be affixed to the RV in such a manner that it is prominently displayed and visible, to the extent possible, from a public right-of-way.

C. The *city manager* may approve use of an RV for temporary lodging not meeting the standards of sections A and B of this section when necessary to provide emergency shelter. Approval timeframes and conditions of approval shall be as determined by the *city manager*.

18.30.160**Setbacks - Measurement.**

A. *Street Setback*. The *street setback* is measured from the existing edge of a *street* right-of-way or temporary turnaround or the edge of the *street* paving if it extends beyond the right-of-way, whichever is closer to the proposed *structure*, to a line parallel to and measured perpendicularly from the *street* right-of-way or temporary turnaround or the edge of the *street* paving which extends beyond the right-of-way at the depth prescribed for each zone. A *lot* may have more than one *street setback*.

B. *Rear Setback*. The rear *setback* is measured from the line opposite the *street* lot line to which a *building* faces, to a line parallel to and measured perpendicularly from the rear lot line at the depth prescribed for the zone. On a corner *lot*, the *street* lot line to which a *building* faces shall be determined by the *city manager* to be the yard which best conforms to the pattern of the adjacent block faces. A *lot* shall have only one rear *setback*.

C. *Side Setback*. Any boundary of a *lot* which is not a *street* lot line or a rear lot line is considered a side lot line. The side *setback* is measured from side lot lines to a line parallel to and measured perpendicularly from the side lot lines at the depth prescribed for the zone. [Ord. 08-0289 § 3; Ord. 98-0026 §§ 1, 2 (KCC 21A.12.110).]

D. *Interior Setback*. Any boundary of a *lot* which is not a *street* lot line is considered an interior lot line. The interior *setback* is measured from interior lot lines to a line parallel and measured perpendicularly from the interior lot lines at the depth prescribed for the zone.

18.30.170**Setbacks – Specific building or use.**

When a *building* or *use* is required to maintain a specific *setback* from a property line or other *building*, such *setback* shall apply only to the specified *building* or *use*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.12.120).]

18.30.190**Setbacks – Modifications.**

The following *setback* modifications are permitted:

A. When the common property line of two *lots* is covered by a *building(s)*, the *setbacks* required by this chapter shall not apply along the common property line; and

B. When a *lot* is located between *lots* having nonconforming *street setbacks*, the required *street setback* for such *lot* may be the average of the two nonconforming *setbacks* or 60 percent of the required *street setback*, whichever results in the greater *street setback*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.12.130).]

18.30.200

Setbacks – From regional utility corridors.

A. In subdivisions and short subdivisions, areas used as *regional utility corridors* shall be contained in separate tracts.

B. In other types of land *development permits*, easements shall be used to delineate such corridors.

C. All *buildings* and *structures* shall maintain a minimum distance of five feet from property or easement lines delineating the boundary of *regional utility corridors*, except for utility *structures* necessary to the operation of the utility corridor or when *structures* are allowed by mutual agreement in the utility corridor. [Ord. 98-0026 §§ 1, 2 (KCC 21A.12.140).]

18.30.210

Setbacks – From alley.

A. *Structures* may be built to a property line abutting an *alley*, except as provided in subsection (B) of this section.

B. Vehicle access points from garages, carports or fenced parking areas shall be set back from the *alley* property line to provide a straight line length of at least 26 feet, as measured from the centerline of the garage, carport or fenced parking area, from the access point to the opposite edge of the *alley*. No portion of the garage or the door in motion may cross the property line. [Ord. 98-0026 §§ 1, 2 (KCC 21A.12.150).]

18.30.220

Setbacks – Required modifications.

The following *setback* modifications are required:

A. In addition to providing the standard *street setback*, a *lot* adjoining a half-street or designated arterial shall provide an additional width of *street setback* sufficient to accommodate construction of the planned half-street or arterial; and

B. Where the standard *setback* for a property is modified within an adopted subarea or neighborhood plan area zoning, the applicable *setback* shall be that specified therein. [Ord. 98-0026 §§ 1, 2 (KCC 21A.12.160).]

18.30.230

Setbacks – Projections and structures allowed.

Provided that the required *setbacks* from *regional utility corridors* of KMC 18.30.200, the adjoining half-street or designated arterial *setbacks* of KMC 18.30.220 and the sight distance requirements of KMC 18.30.240 are maintained, *structures* may extend into or be located in required *setbacks*, including *setbacks* as required by KMC 18.21.060(B), as follows:

A. Fireplace *structures*, bay or garden windows, enclosed stair landings, closets, or similar *structures* may project into any *setback*, provided such projections are:

1. Limited to two per facade;

2. Not wider than 10 feet; and. Not more than 24 inches into an interior *setback* or 30 inches into a *street setback*;

B. Uncovered porches and decks which exceed 18 inches above the finished grade may project:

1. Eighteen inches into interior *setbacks* in the NB, CB, DR, DC, RB, PSP, P, and GC zones;

2. Eighteen inches into side *setbacks* in the R zones;

3. Eighteen inches into rear *setbacks* in the R-12 through R-48 zones;

4. Five feet into rear *setbacks* in the R-1 through R-6 zones; and

5. Five feet into *street setbacks*;

C. Uncovered porches and decks not exceeding 18 inches above the finished grade may project to the property line;

D. Eaves may not project more than:

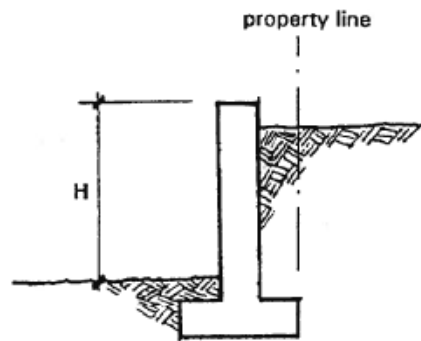
1. Eighteen inches into an interior *setback*;

2. Twenty-four inches into a *street setback*; or

3. Eighteen inches across a lot line in a *zero-lot-line development*;

- E. *Fences* with a height of eight feet or less may project into or be located in any *setback*;
- F. Rockeries, *retaining walls* and curbs may project into or be located in any *setback* provided these *structures*:
 - 1. Do not exceed a height of six feet in the R-1 through R-18, Parks and Golf Course zones;
 - 2. Do not exceed a height of eight feet in the R-24, R-48 and Downtown Residential zones; and
 - 3. Do not exceed the building height for the zone in commercial and Public/Semi-Public zones, measured in accordance with the standards established in the *city building code*, KMC Title 15;
- G. *Fences* located on top of rockeries, *retaining walls* or *berms* are subject to the requirements of KMC 18.30.040;
- H. Telephone, power, light and flag poles;
- I. The following may project into or be located within a *setback*, but may only project into or be located within a five-foot interior *setback* area if an agreement documenting consent between the owners of record of the abutting properties is recorded with the *city* prior to the installment or construction of the *structure*:
 - 1. Sprinkler systems, electrical and cellular equipment cabinets, air conditioning units, and other similar utility boxes and vaults;
 - 2. Security system access controls;
 - 3. *Structures*, except for *buildings*, associated with *trails* and on-site recreation spaces required in KMC 18.30.130 such as benches, picnic tables and drinking fountains; and
 - 4. Surface water management facilities as required by Chapter 13.35 KMC;
- J. Mailboxes and newspaper boxes may project into or be located within *street setbacks*;
- K. Fire hydrants and associated appendages;
- L. Metro bus shelters may be located within *street setbacks*;
- M. Unless otherwise allowed in KMC 18.42.090, freestanding and *monument signs* four feet or less in height, with a maximum *sign* area of 20 square feet may project into or be located within *street setbacks*; and
- N. Stormwater conveyance and control facilities, both above and below ground, provided such projections are:
 - 1. Consistent with *setback*, easement and access requirements specified in the Surface Water Design Manual; or
 - 2. In the absence of said specifications, not within five feet of the property line.
- O. Minor improvements such as garden sculpture, *landscape water features*, trellises not attached to a building, and similar decorative *structures*;
- P. In a rear *setback* in the R4 and R6 residential zones, the following *structures* are permitted if it is determined by the *city manager* that they will not have any substantial detrimental effect on abutting properties or the *city* as a whole and provided that they shall be no closer than 5' to the rear lot line:
 - 1. Children's play *structures* not otherwise regulated by this title.
 - 2. No more than one storage shed or similar *use*, limited in height to eight feet for a flat roof or ten feet for a pitched roof, with a maximum dimension of 15 feet on any side and a total area not exceeding 200 square feet;
 - 3. An *arbor*, not attached to a building and limited in height to eight feet, with a maximum footprint of 100 square feet, including eaves. If latticework is used, there shall be a minimum opening of two inches between crosspieces.

RETAINING WALL IN SETBACK



H maximum 6' in R-1– R18, P and GC zones

H maximum of 8' in R-24, R-48 and DR zones

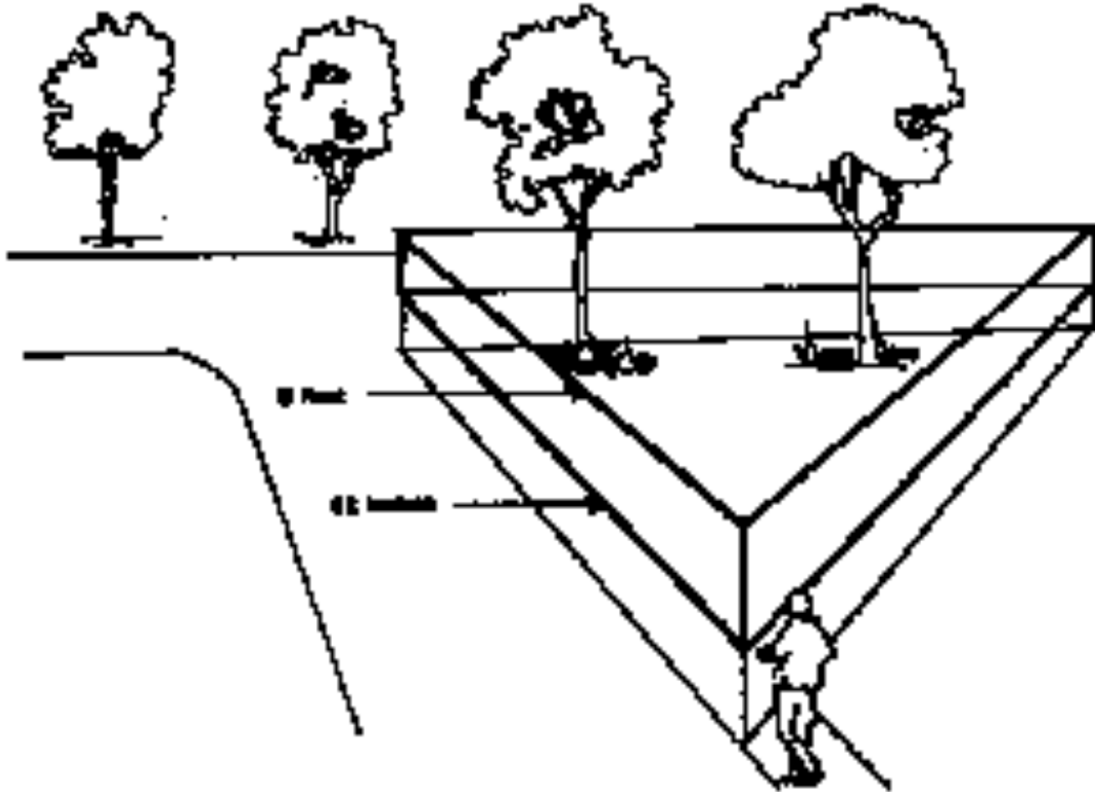
H not to exceed building height requirement in commercial and PSP zones

18.30.240

Sight distance requirements.

Except for utility poles and traffic control *signs*, the following sight distance provisions shall apply to all intersections and *site* access points:

A. A sight distance triangle area as determined by subsection (B) of this section shall contain no *fence, berm, vegetation*, on-site vehicle parking area, *signs* or other physical obstruction between 42 inches and eight feet above the existing street grade;



NOTE: The area of a sight distance triangle between 42 inches and eight feet above the existing street grade shall remain open.

B. The sight distance triangle at:

1. A *street* intersection shall be determined by measuring 15 feet along both *street* property lines beginning at their point of intersection. The third side of the triangle shall be a line connecting the endpoints of the first two sides of the triangle; or

2. A *site* access point shall be determined by measuring 15 feet along the *street* lines and 15 feet along the edges of the driveway beginning at the respective points of intersection. The third side of each triangle shall be a line connecting the endpoints of the first two sides of each triangle; and

C. The *city manager* may require modification or removal of *structures* or landscaping located in required *street setbacks*, if:

1. Such improvements prevent adequate sight distance to drivers entering or leaving a driveway; and

2. No reasonable driveway relocation alternative for an adjoining *lot* is feasible. [Ord. 98-0026 §§ 1, 2 (KCC 21A.12.210).]

D. If an off-site sight distance triangle is created on adjoining property, the *applicant* shall obtain an easement from the neighboring property owner for the area of the sight distance triangle and make such modifications as are necessary to provide adequate sight distance for drivers.

E. The city manager may modify any of the requirements of this section as long as public safety is not compromised.

18.30.250

Storage space and collection points for trash and recyclables.

Multiple-family dwelling and nonresidential *developments* shall provide storage space for the collection of trash and recyclables as follows (for all zones except in the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE, as described in subsection (G) of this section):

A. The storage space shall be provided at the following rates, calculated based on any new *dwelling unit* in *multiple-family dwelling developments* and any new square feet of *building* gross floor area in any other *developments*:

1. One and one-half square feet per *dwelling unit* in *multiple-family dwelling developments* except where the *development* is participating in a city-sponsored or approved direct collection program in which individual recycling bins are used for curbside collection;

2. Two square feet per every 1,000 square feet of *building* gross floor area in office, educational and institutional *developments*;

3. Three square feet per every 1,000 square feet of *building* gross floor area in manufacturing and other nonresidential *developments*; and

4. Five square feet per every 1,000 square feet of *building* gross floor area in retail *developments*.

B. The storage space for residential *developments* shall be apportioned and located in collection points as follows:

1. The required storage area shall be dispersed in collection points throughout the *site* when a residential *development* comprises more than one *building*.

2. There shall be one collection point for every 30 *dwelling units*.

3. Collection points may be located within residential *buildings*, in separate *buildings/structures* without *dwelling units*, or outdoors.

4. Collection points located in separate *buildings/structures* or outdoors shall be no more than 200 feet from a common entrance of a residential *building*.

5. Collection points shall be located in a manner so that the swing of any collection point gate does not obstruct pedestrian or vehicle traffic or access to parking or that the gate swing or any hauling truck does not project into any public right-of-way.

C. The storage space for nonresidential *developments* shall be apportioned and located in collection points as follows:

1. Storage space may be allocated to a centralized collection point.

2. Outdoor collection points shall not be located in any required *setback* areas.

3. Collection points shall be located in a manner so that the swing of any collection point gate does not obstruct pedestrian or vehicle traffic or access to parking or that the gate swing or any hauling truck does not project into any public right-of-way.

4. Access to collection points may be limited, except during regular business hours and/or specified collection hours.

D. The collection points shall be designed as follows:

1. Dimensions of the collection points shall be of sufficient width and depth to enclose containers for trash and recyclables.

2. Architectural design of any *structure* enclosing an outdoor collection point or any *building* primarily used to contain a collection point shall be consistent with the design of the primary *structure(s)* on the *site*.

3. Collection points shall be identified by *signs* not exceeding two square feet.

4. A minimum six-foot tall wall or *fence* shall enclose any outdoor collection point.

5. Enclosures for outdoor collection points and *buildings* used primarily to contain a collection point shall have gate openings at least 12 feet wide for haulers. In addition, the gate opening for any *building* or other roofed *structure* used primarily as a collection point shall have a vertical clearance of at least 12 feet.

6. Weather protection of trash and recyclables shall be ensured by using weather-proof containers or by providing a roof over the storage area.

E. Only trash and *recyclable materials* generated on-site shall be collected and stored at such collection points. Except for initial sorting of recyclables by users, all other processing of such materials shall be conducted off-site.

F. The *city manager* may waive or modify specific storage space and collection point requirements set forth in this section if the *city manager* finds, in writing, that an alternate program design proposed by the *applicant* meets the needs of the *development* and provides an equivalent or better level of storage and collection for trash and recyclables.

G. For the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE, the standards in this section above apply as an option. The downtown design standards offer additional options for screening of storage for these zones only. [Ord. 03-0175 § 28; Ord. 98-0026 §§ 1, 2 (KCC 21A.14.210).]

18.30.260

Trail corridors – Applicability.

Trail easements shall be provided by any *development*, except for single detached residential permits, when such *developments* are located within any community or regional *trail* corridor identified by an adopted Kenmore plan identifying community and/or regional *trail* systems. The residents or tenants of the *development* shall be provided access to the *trail* easement. The area of the *trail* easement shall be counted as part of the *site* for purposes of density and floor area calculations. [Ord. 98-0026 §§ 1, 2 (KCC 21A.14.230).]

18.30.270

Trail corridors – Design standards.

Trail design shall be reviewed by the *department* for consistency with adopted standards, including the standards in KMC Title 12, for:

- A. Width of the *trail* corridor;
- B. Location of the *trail* corridor on the *site*;
- C. Surfacing improvements; and
- D. *Use(s)* permitted within the corridor. [Ord. 98-0026 §§ 1, 2 (KCC 21A.14.240).]

18.30.280

Trail corridors – Maintenance of trail corridors/improvements.

Maintenance of any *trail* corridor or improvements, retained in *private* ownership, shall be the responsibility of the owner or other separate entity capable of long-term maintenance and operation in a manner acceptable to the *department*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.14.250).]

Chapter 18.35

DEVELOPMENT STANDARDS – LANDSCAPING

Sections:

- 18.35.010 Purpose.
- 18.35.020 Application.
- 18.35.030 Land use grouping.
- 18.35.040 Landscaping – Screen types and description.
- 18.35.045 Landscaping – General requirements.
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- 18.35.110 Landscaping – Plan design, design review, and installation.
- 18.35.120 Maintenance.
- 18.35.130 Financial guarantees.

18.35.010**Purpose.**

The purpose of this chapter is to preserve the aesthetic character of communities; to improve the aesthetic quality of the built environment; to promote retention and protection of existing *vegetation*; to promote water efficiency; to promote native wildlife; to reduce the impacts of *development* on drainage systems and natural habitats; and to increase privacy for residential zones by:

- A. Providing visual relief from large expanses of parking areas and reduction of perceived *building* scale;
- B. Providing physical separation between residential and nonresidential areas;
- C. Providing visual screens and barriers as a transition between differing land *uses*;
- D. Retaining existing *vegetation* and *significant trees* by incorporating them into the site design;
- E. Providing increased areas of permeable surfaces to allow for:
 - 1. Infiltration of surface water into groundwater resources;
 - 2. Reduction in the quantity of stormwater discharge; and
 - 3. Improvement in the quality of stormwater discharge;
- F. Encouraging the use of native plant species by their retention or use in the landscape design;
- G. Encouraging the use of a diversity of plant species which promote native wildlife habitat. [Ord. 98-0026 §§ 1, 2 (KCC 21A.16.010).]

18.35.020**Application.**

Except for *communication facilities* regulated pursuant to Chapter 18.60 KMC, all new *development* shall be subject to the *landscaping* provisions of this chapter; provided, that specific *landscaping* and *tree* retention provisions for *uses* established through a *conditional use permit* or *special use permit* shall be determined during the applicable review process. [Ord. 98-0026 §§ 1, 2 (KCC 21A.16.020).]

18.35.030**Land use grouping.**

To facilitate the application of this chapter, land *uses* have been grouped in the following manner:

- A. “Residential *development*” refers to *residential land uses*, except *residential accessory uses*, *home occupation*, and *home industry*.
- B. “Attached/group residences” refers to:
 - 1. *Townhouses*, except as provided in subsection (C)(1) of this section;
 - 2. *Apartments*, and detached *dwelling units* developed on common property at a density of 12 or more units per acre;
 - 3. *Senior citizen assisted living*;
 - 4. Temporary lodging;
 - 5. Group residences other than Type I *community residential facilities*; and
 - 6. *Mobile home parks*.
- C. “Single-family *development*” refers to:
 - 1. Residential subdivisions and short subdivisions, including attached and detached *dwelling units* on individually platted or short platted *lots*;
 - 2. Any detached *dwelling units* located on a *lot*;
 - 3. *Family child-care homes*; and
 - 4. Type I *community residential facilities*.
- D. “Commercial *development*” refers to:
 - 1. *Adult entertainment business*; *theater*; *theater*, drive-in; bowling center; *amusement and recreation services*; *shooting range*; *amusement arcades*; amusement park; and *outdoor performance center*;
 - 2. “General services land uses” except recycling centers, health and educational services, *day care* I, and *church*, *synagogue*, *mosque*, *temple*;
 - 3. “Retail land uses”, except *forest product sales* and agricultural crop sales; and
 - 4. Car washes.
- E. “Industrial *development*” refers to:
 - 1. *Interim recycling facility*;

2. “Government/business services land uses” except *public agency or utility office; public agency or utility yard; public agency archives; court; police facility; fire facility; utility facility; commuter parking lot; private stormwater management facility; and vector waste receiving facility;*

3. “Manufacturing land uses”; and

4. Mineral extraction and processing.

F. “Institutional development” refers to:

1. Library, museum and conference center;

2. Church, synagogue, mosque, temple; medical/dental office/outpatient clinics, nursing facilities, hospital, medical/dental lab and miscellaneous health services; and elementary schools, middle/junior high schools, secondary or high schools, vocational schools, school district support facilities, and specialized instruction schools except specialized instruction schools permitted as an accessory use; and

3. Public agency or utility office; public agency or utility yard; public agency archives; court; police facility; fire facility; utility facility; commuter parking lot; private stormwater management facility; and vector waste receiving facility.

G. “Utility development” refers to utility facilities.

H. Uses that are not listed in this section shall not be subject to landscaping requirements except as specified in any applicable review of a conditional use or special use permit.

18.35.040

Landscaping – Screen types and description.

The three types of landscaping screens are described and applied as follows:

A. Type I landscaping screen:

1. Type I landscaping is a “full screen” that functions as a visual barrier.

2. Type I landscaping shall minimally consist of:

a. A mix of primarily evergreen trees and shrubs generally interspersed throughout the landscape strip and spaced to form a continuous screen;

b. Between 70 and 90 percent evergreen trees;

c. Trees provided at the rate of one per 10 linear feet of landscape strip and spaced no more than 30 feet apart on center;

d. Evergreen shrubs provided at the rate of one per linear four feet of landscape strip and spaced no more than eight feet apart on center; and

e. Ground cover pursuant to KMC 18.35.090;

B. Type II landscaping screen:

1. Type II landscaping is a “filtered screen” that functions as a visual separator.

2. Type II landscaping shall minimally consist of:

a. A mix of evergreen and deciduous trees and shrubs generally interspersed throughout the landscape strip spaced to create a filtered screen;

b. At least 50 percent deciduous trees and at least 30 percent evergreen trees;

c. Trees provided at the rate of one per 20 linear feet of landscape strip and spaced no more than 30 feet apart on center;

d. Shrubs provided at the rate of one per four linear feet of landscape strip and spaced no more than eight feet apart on center; and

e. Ground cover pursuant to KMC 18.35.090;

C. Type III landscaping screen:

1. Type III landscaping is a “see-through screen” that functions as a partial visual separator to soften the appearance of parking areas and building elevations.

2. Type III landscaping shall minimally consist of:

a. A mix of evergreen and deciduous trees generally interspersed throughout the landscape strip and spaced to create a continuous canopy;

b. At least 70 percent deciduous trees;

c. Trees provided at the rate of one per 25 linear feet of landscape strip and spaced no more than 30 feet apart on center;

d. Shrubs provided at the rate of one per four linear feet of landscape strip and spaced no more than eight feet apart on center; and

e. Ground cover pursuant to KMC 18.35.090. [Ord. 98-0026 §§ 1, 2 (KCC 21A.16.040).]

18.35.045

Landscaping -- General requirements.

	Street frontage perimeter landscaping (average width) ⁹	Interior lot line perimeter landscaping (average width) ¹⁴	Surface parking lots of 10 or more stalls
Residential development ¹	10' Type III ⁸	5' Type II ⁸ 10' Type II ¹¹	20 sq.ft. per stall in common parking areas
Commercial development ²	10' Type III	20' Type I ¹⁰	20 sq.ft. per stall if 10-30 stalls provided; 25 sq.ft. per stall if 31 or more stalls provided.
Industrial development ³	10' Type II	10' Type II ¹² 20' Type I ¹⁰	20 sq.ft. per stall if 10-30 stalls provided; 25 sq.ft. per stall if 31 or more stalls provided.
Institutional development ⁴	20' Type II ⁶	10' Type II	20 sq.ft. per stall if 10-30 stalls provided; 25 sq.ft. per stall if 31 or more stalls provided.
Utility development ⁵	10' Type II ⁷	10' Type II ¹³	20 sq.ft. per stall if 10-30 stalls provided; 25 sq.ft. per stall if 31 or more stalls provided.

¹As described in KMC 18.35.030(A).

²As described in KMC 18.35.030(D).

³As described in KMC 18.35.030(E).

⁴As described in KMC 18.35.030(F).

⁵As described in KMC 18.35.030(G).

⁶Excluding playgrounds and playfields.

⁷For an above-ground *utility facilities development* only, excluding distribution and transmission corridors.

⁸Only for attached/group residence *development* as described in KMC 18.40.030(B).

⁹For all zones except the DC and DR zones. In the CB zone, where *street frontage setbacks* are required, the area within the *setback* must contain Type II *landscaping*.

¹⁰Along any portion adjacent to a residential *development* as described in KMC 18.40.030(A).

¹¹Along portions of an attached/group residence *development* as described in KMC 18.40.030(B) adjacent to property developed with single detached residences or vacant property that is zoned R1-6.

¹²Along any portion adjacent to a commercial or institutional *development* as described in KMC 18.40.030(D) and (F).

¹³Excluding distribution or transmission corridors.

¹⁴In the DC zone, where interior *setbacks* are required and/or provided, *setbacks* shall be landscaped with Type II *landscaping*. In the CB zone, where interior *setbacks* are required and/or provided, *setbacks* shall be landscaped with Type II *landscaping*.

18.35.050**Landscaping – Street trees for single-family subdivisions.**

For single-family subdivisions:

A. Trees shall be planted at the rate of one tree for every 40 feet of frontage along a neighborhood collector *street* or arterial *street*;

B. The trees shall be:

- a. Located within the street right-of-way if permitted by the *city*;
- b. No more than 20 feet from the street right-of-way line if located within a *lot*;
- c. Maintained by the adjacent landowner unless part of a *city* maintenance program; and

d. A species approved by the *city* if located within the street right-of-way and compatible with overhead utility lines;

C. The trees may be spaced at irregular intervals to accommodate sight distance requirements for driveways and intersections.

18.35.060**Landscaping along the Burke-Gilman public trail.**

RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE shall provide 10 feet of Type II *landscaping* along the common property boundary with the Burke-Gilman public trail right-of-way. Property owners may negotiate with King County to have the Type II *landscaping* located within the Burke-Gilman public right-of-way.

18.35.070**Landscaping – Surface parking areas.**

A. *Trees* shall be provided and distributed throughout the parking area at a rate of:

1. One *tree* for every three parking stalls for a commercial or industrial *development*; and
2. One *tree* for every five parking stalls for residential or institutional *development*;

B. The maximum distance between any parking stall and *landscaping* shall be no more than 100 feet;

C. Permanent curbs or structural barriers shall be provided to protect the plantings from vehicle overhang;

D. Landscaping around the perimeter of a *site* that is in addition to the perimeter *landscaping* required by KMC 18.35.045 may count toward 10 percent of the required surface parking area *landscaping* in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE (see subsection (F) of this section) if it is adjacent to the parking area;

E. Parking area *landscaping* shall consist of:

1. Canopy-type *deciduous trees*, *evergreen trees*, *evergreen shrubs* and ground covers planted in islands or strips;
2. Shrubs that do not exceed a maintained height of 42 inches;
3. Plantings contained in planting islands or strips having an area of at least 100 square feet and with a narrow dimension of no less than five feet;
4. Ground cover in accordance with KMC 18.35.090; and
5. At least 70 percent of *trees* are *deciduous*; and

F. Standards for perimeter *landscaping* and screening of surface parking lots for the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE, are defined in Chapter 18.52 KMC, Downtown Design Standards. All other landscape requirements for surface parking lot landscape in this section apply to the DC and DR zones, and RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE. [Ord. 03-0175 § 31; Ord. 98-0026 §§ 1, 2 (KCC 21A.16.070).]

18.35.080**Landscaping – General standards for all landscape areas.**

All new landscape areas proposed for a *development* shall be subject to the following provisions:

A. *Berms* shall not exceed a slope of two horizontal feet to one vertical foot (2:1).

B. All new turf areas, except all-weather, sand-based athletic fields shall:

1. Be augmented with a two-inch layer of organic material cultivated a minimum of six inches deep; or
 2. Have an organic content of five percent or more to a depth of six inches.
- C. Except as specifically outlined for turf areas in subsection (B) of this section, the organic content of soils in any landscape area shall be as necessary to provide adequate nutrient and moisture-retention levels for the establishment of plantings.
- D. Landscape areas, except turf or areas of established *groundcover*, shall be covered with at least two inches of *mulch* to minimize evaporation.
- E. Plants having similar water use characteristics shall be grouped together in distinct hydrozones.
- F. Plant selection shall consider adaptability to climatic, geologic, and topographical conditions of the *site*. Preservation of existing *vegetation* is encouraged. [Ord. 98-0026 §§ 1, 2 (KCC 21A.16.085).]

18.35.090**Landscaping – Additional standards for required landscape areas.**

In addition to the general standards of KMC 18.35.080, landscape areas required pursuant to KMC 18.35.045 through 18.35.070 shall conform to the following standards:

A. All plants shall conform to American Association of Nurserymen (AAN) grades and standards as published in the “American Standard for Nursery Stock” manual; provided, that existing healthy *vegetation* used to augment new plantings shall not be required to meet the standards of this manual;

B. Single-stemmed *trees* required pursuant to this chapter shall at the time of planting conform to the following standards:

1. In parking area *landscaping* and in *street* rights-of-way:
 - a. *Deciduous trees* shall have a minimum *caliper* of 1.75 inches and a height of 10 feet in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE, which shall have a minimum *caliper* of 3.0, and
 - b. Coniferous and *broadleaf evergreen trees* shall be at least five feet in height;
 2. In all other required landscape areas:
 - a. *Deciduous trees* shall have a minimum *caliper* of 1.5 inches and a height of 10 feet in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE, which shall have a minimum *caliper* of 3.0, and
 - b. Coniferous and *broadleaf evergreen trees* shall be at least five feet in height except in the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE where they shall be at least 10 feet in height;
- C. Multiple-stemmed *trees* shall be permitted as an option to single-stemmed *trees* in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE provided that such multiple-stemmed *trees* are:
1. At least six feet in height, and
 2. Not allowed within *street* rights-of-way;
- D. When the width of any landscape strip is 20 feet or greater, the required *trees* shall be staggered in two or more rows;

E. Shrubs shall be:

1. At least an AAN container class #2 (two-gallon) size at time of planting in Type II, III and parking area *landscaping*,
 2. At least 24 inches in height at the time of planting for Type I *landscaping*, and
 3. Maintained at a height not exceeding 42 inches when located in Type III or parking area *landscaping* except in the DC and DR zones where
- they shall not exceed a maximum height of 48 inches;

F. Ground covers shall be planted and spaced to result in total coverage of the majority of the required landscape area within three years;

G. All *fences* shall be placed on the inward side of any required perimeter *landscaping* along the *street* *frontage*;

H. Required *street* *landscaping* may be placed within *city* *street* rights-of-way subject to the *city* *street* design standards, provided adequate space is maintained along the *street* line to replant the required *landscaping* should subsequent *street* improvements require the removal of *landscaping* within the rights-of-way;

I. Required *street landscaping* may be placed within Washington State rights-of-way subject to permission of the Washington State Department of Transportation; and

J. New landscape material provided within areas of undisturbed *vegetation* or within the protected area of *significant trees* shall give preference to utilizing indigenous plant species. [Ord. 03-0175 § 32; Ord. 98-0026 §§ 1, 2 (KCC 21A.16.090).]

18.35.100

Landscaping – Alternative options.

The following alternative landscape options may be allowed, subject to *city* approval, only if they accomplish equal or better levels of screening, or when existing conditions on or adjacent to the *site*, such as significant topographic differences, *vegetation*, *structures* or utilities would render application of this chapter ineffective or result in scenic view obstruction:

A. The amount of required landscape area may be reduced to ensure that the total area for required *landscaping*, and/or the area remaining undisturbed for the purpose of wildlife habitat or corridors does not exceed 15 percent of the net developable area of the *site*. For the purpose of this subsection, the net developable area of the *site* shall not include areas deemed unbuildable due to their location within *critical areas* and any associated *buffers*;

B. The average width of the perimeter landscape strip may be reduced up to 25 percent along any portion where:

1. *Berms* at least three feet in height or architectural barriers at least six feet in height are incorporated into the landscape design; or

2. The landscape materials are incorporated elsewhere on-site;

C. Where a local or subarea plan with design guidelines has been adopted, the *city manager* shall base the *landscaping* modifications on the policies and guidelines of such plan;

D. When an existing *structure* precludes installation of the total amount of required *site* perimeter *landscaping*, such *landscaping* material shall be incorporated on another portion of the *site*;

E. Single-stemmed *deciduous tree* species that cannot generally be planted and established in larger sizes may have a *caliper* of less than 1.5 inches;

F. The number of *trees* and shrubs to be provided in required perimeter and parking area *landscaping* may be reduced up to 25 percent when a *development* uses landscaping materials consisting of species typically associated with the Puget Sound Basin in the following proportions:

1. Seventy-five percent of *groundcover* and shrubs, and

2. Fifty percent of *trees*;

G. In the DC and DR zones, alternative landscape requirements may be proposed in order to retain *trees* (over 12 inches DBH if *deciduous* or eight inches DBH if *evergreen*, measured as average trunk diameter at chest height; measured four and one-half feet above grade). This alternative requirement applies only to *trees* which are beyond what is already required in the city's significant tree ordinance. Interior parking lot landscape requirements may be reduced at a 1:1 ratio equal to the land area within the drip line of the *tree* being retained. [Ord. 03-0175 § 33; Ord. 98-0026 §§ 1, 2 (KCC 21A.16.100).]

18.35.110

Landscaping – Plan design, design review, and installation.

A. The landscape plan submitted to the *department* shall be drawn on the same base map as the development plans and shall identify the following:

1. Total landscape area and separate hydrozones;

2. Landscape materials botanical/common name and applicable size;

3. Property lines;

4. *Impervious surfaces*;

5. Natural or manmade water features or bodies;

6. Existing or proposed *structures*, *fences*, and *retaining walls*;

7. Natural features or *vegetation* left in natural state; and

8. Designated recreational open space areas.

B. The proposed landscape plan shall be certified by a Washington State registered landscape architect, Washington State certified nurseryman, or Washington State certified landscaper.

C. An affidavit signed by an individual specified in subsection (B) of this section, certifying that the *landscaping* has been installed consistent with the approved landscaping plan, shall be submitted to the *department* within 30 days of installation completion, unless the installed *landscaping* has been inspected and accepted by the *department*.

D. The required *landscaping* shall be installed no later than three months after issuance of a certificate of occupancy for the project or project phase. However, the time limit for compliance may be extended to allow installation of such required *landscaping* during the next appropriate planting season. A *financial guarantee* shall be required prior to issuance of the certificate of occupancy, if *landscaping* is not installed and inspected prior to occupancy. [Ord. 98-0026 §§ 1, 2 (KCC 21A.16.115).]

18.35.120

Maintenance.

A. All *landscaping* shall be maintained for the life of the project;

B. All landscape materials shall be pruned and trimmed as necessary to maintain a healthy growing condition or to prevent primary limb failure;

C. With the exception of dead, diseased or damaged *trees* specifically retained to provide wildlife habitat; other dead, diseased, damaged or stolen plantings shall be replaced within three months or during the next planting season if the loss does not occur in a planting season; and

D. Landscape areas shall be kept free of trash. [Ord. 98-0026 §§ 1, 2 (KCC 21A.16.180).]

18.35.130

Financial guarantees.

Financial guarantees shall be required consistent with the provisions of KMC Title 21. This time period may be extended to one year by the *city manager*, if necessary to cover a planting and growing season. [Ord. 98-0026 §§ 1, 2 (KCC 21A.16.190).]

Chapter 18.40

DEVELOPMENT STANDARDS – PARKING AND CIRCULATION

Sections:

- 18.40.010 Purpose.
- 18.40.020 Authority and application.
- 18.40.030 Computation of required off-street parking spaces.
- 18.40.040 Shared parking requirements.
- 18.40.050 Exceptions for community residential facilities (CRF) and senior citizen assisted living.
- 18.40.060 Parking for the disabled.
- 18.40.070 Loading space requirements.
- 18.40.080 Stacking spaces for drive-through facilities.
- 18.40.090 Transit and rideshare provisions.
- 18.40.100 Pedestrian and bicycle circulation and access.
- 18.40.110 Off-street parking plan design standards.
- 18.40.120 Off-street parking construction standards.
- 18.40.130 Compact car allowance requirements.
- 18.40.140 Internal circulation road standards.

18.40.010

Purpose.

The purpose of this chapter is to provide adequate parking for all *uses* allowed in this title; to reduce demand for parking by encouraging alternative means of transportation including public transit, rideshare and bicycles; and to increase pedestrian mobility in urban areas by:

A. Setting minimum off-street parking standards for different land *uses* that assure safe, convenient and adequately sized parking facilities within activity centers;

- B. Providing incentives to rideshare through preferred parking arrangements;
- C. Providing for parking and storage of bicycles;
- D. Providing safe direct pedestrian access from public rights-of-way to *structures* and between *developments*; and
- E. Requiring *uses* which attract large numbers of employees or customers to provide transit stops. [Ord. 98-0026 §§ 1, 2 (KCC 21A.18.010).]

18.40.020**Authority and application.**

A. Before an occupancy permit may be granted for any new or enlarged *building* or for a change of *use* in any existing *building*, the *use* shall be required to meet the provisions of this chapter.

B. If this chapter does not specify a parking requirement for a land *use*, the *city manager* shall establish the minimum requirement based on a study of anticipated parking demand. Transportation demand management actions taken at the *site* shall be considered in determining anticipated demand. If the *site* is located in an activity center or community business center, the minimum requirement shall be set at a level less than the anticipated demand, but at no less than 75 percent of the anticipated demand. In the study the *applicant* shall provide sufficient information to demonstrate that the parking demand for a specific land *use* will be satisfied. Parking studies shall be prepared by a professional engineer with expertise in traffic and parking analyses, or an equally qualified individual as authorized by the *city manager*.

C. If the required amount of off-street parking has been proposed to be provided off-site, the *applicant* shall provide written contracts with affected landowners showing that required off-street parking shall be provided in a manner consistent with the provisions of this chapter. The contracts shall be reviewed by the *city manager* for compliance with this chapter, and if approved, the contracts shall be recorded with the county records and elections division as a deed restriction on the title to all applicable properties. These deed restrictions may not be revoked or modified without authorization by the *city manager*.

D. Where a neighborhood or subarea plan with design guidelines that includes the subject property has been adopted, the *city manager* shall base allowable waivers or modifications on the policies and guidelines in such plan. [Ord. 98-0026 §§ 1, 2 (KCC 21A.18.020).]

18.40.030**Computation of required off-street parking spaces.**

A. Except as modified in KMC 18.40.040, 18.40.050 or 18.40.090, off-street parking areas shall contain at a minimum the number of *parking spaces* as stipulated in the following table. Off-street parking ratios expressed as number of spaces per square feet means the usable or net square footage of floor area, exclusive of nonpublic areas. Nonpublic areas include but are not limited to building maintenance areas, storage areas, closets, restrooms and exterior walls. If the formula for determining the number of off-street *parking spaces* results in a fraction, the number of off-street *parking spaces* shall be rounded to the nearest whole number with fractions of 0.50 or greater rounding up and fractions below 0.50 rounding down.

LAND USE	MINIMUM PARKING SPACES REQUIRED Citywide, Except in Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE	MINIMUM PARKING SPACES REQUIRED Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE
RESIDENTIAL:		
Single detached	2.0 per <i>dwelling unit</i>	2.0 per <i>dwelling unit</i> ; tandem stalls permitted
<i>Townhouse</i>	2.0 per <i>dwelling unit</i>	1.5 per <i>dwelling unit</i> ; tandem stalls permitted

LAND USE	MINIMUM PARKING SPACES REQUIRED Citywide, Except in Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE	MINIMUM PARKING SPACES REQUIRED Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE
Guest parking	1 space for every 5 units	1 space for every 5 units
<i>Apartment:</i>		
Studio units	1.2 per <i>dwelling unit</i>	1.0:du; tandem stalls permitted
One bedroom units	1.5 per <i>dwelling unit</i>	1.0:du; tandem stalls permitted
Two bedroom units	1.7 per <i>dwelling unit</i>	1.5:du; tandem stalls permitted
Three bedroom units or larger	2.0 per <i>dwelling unit</i>	1.7:du; tandem stalls permitted
Guest parking	1 space for every 5 units	1 space for every 5 units
<i>Mobile home park</i>	2.0 per <i>dwelling unit</i>	2.0 per <i>dwelling unit</i>
<i>Senior citizen assisted living</i>	1 per 2 dwelling or sleeping units	1 per 2 dwelling or sleeping units
<i>Community residential facilities</i>	1 per 2 bedrooms	1 per 2 bedrooms
<i>Dormitory, including religious</i>	1 per 2 bedrooms	1 per 2 bedrooms
<i>Hotel/motel including organizational hotel/lodging</i>	1 per bedroom	1 per bedroom
<i>Bed and breakfast guesthouse</i>	1 per guest room, plus 2 per facility	1 per guest room, plus 2 per facility
RECREATIONAL/CULTURAL:		
<i>Recreational/cultural land uses:</i>	1 per 300 square feet	1 per 300 square feet
Exceptions:		
Bowling center	5 per lane	5 per lane
Golf course	3 per hole, plus 1 per 300 square feet of clubhouse facilities	–
Tennis club	4 per tennis court plus 1 per 300 square feet of clubhouse facility	–
Golf driving range	1 per tee	–
<i>Park/playfield</i>	<i>(city manager)</i>	<i>(city manager)</i>
<i>Theater</i>	1 per 3 fixed seats	1 per 3 fixed seats

LAND USE	MINIMUM PARKING SPACES REQUIRED Citywide, Except in Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE	MINIMUM PARKING SPACES REQUIRED Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE
<i>Conference center</i>	1 per 3 fixed seats, plus 1 per 50 square feet used for assembly purposes without fixed seats, or 1 per bedroom, whichever results in the greater number of spaces	1 per 3 fixed seats, plus 1 per 50 square feet used for assembly purposes without fixed seats, or 1 per bedroom, whichever results in the greater number of spaces
GENERAL SERVICES:		
<i>General services land uses:</i>	1 per 300 square feet	1 per 300 square feet
Exceptions:		
Funeral home/crematory	1 per 50 square feet of chapel area	—
<i>Day care I</i>	2 per facility	2 per facility
<i>Day care II</i>	2 per facility, plus 1 space for each 20 children	2 per facility, plus 1 space for each 20 children
<i>Church, synagogue, mosque, temple</i>	1 per 5 fixed seats, plus 1 per 50 square feet of gross floor area without fixed seats used for assembly purposes	1 per 5 fixed seats, plus 1 per 50 square feet of gross floor area without fixed seats used for assembly purposes
Outpatient and veterinary clinic offices	1 per 300 square feet of office, labs and examination rooms	1 per 300 square feet of office, labs and examination rooms
Nursing and personal care facilities	1 per 4 beds	—
Hospital	1 per bed	1 per bed
<i>Elementary schools</i>	1 per <i>school classroom</i> , plus 1 per 50 students	1 per <i>school classroom</i> , plus 1 per 50 students
<i>Secondary schools:</i>		
<i>Middle/junior high schools</i>	1 per <i>school classroom</i> , plus 1 per 50 students	1 per <i>school classroom</i> , plus 1 per 50 students
<i>High schools</i>	1 per <i>school classroom</i> , plus 1 per 10 students	1 per <i>school classroom</i> , plus 1 per 10 students
<i>High schools with stadiums</i>	Greater of 1 per <i>school classroom</i> , plus 1 per 10 students, or 1 per 3 fixed seats in stadium	Greater of 1 per <i>school classroom</i> , plus 1 per 10 students, or 1 per 3 fixed seats in stadium
<i>Vocational schools</i>	1 per <i>school classroom</i> , plus 1 per 5 students	1 per <i>school classroom</i> , plus 1 per 5 students

LAND USE	MINIMUM PARKING SPACES REQUIRED Citywide, Except in Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE	MINIMUM PARKING SPACES REQUIRED Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE
<i>Specialized instruction schools</i>	1 per <i>school classroom</i> , plus 1 per 2 students	1 per <i>school classroom</i> , plus 1 per 2 students
Colleges/universities	1 per 2 commuting students, faculty and staff	—
<i>Artist studios</i>	0.9 per 1,000 square feet of area used for studios	0.9 per 1,000 square feet of area used for studios
GOVERNMENT/BUSINESS SERVICES:		
<i>Government/business services land uses:</i>	1 per 300 square feet	1 per 300 square feet
Exceptions:		
<i>Public agency yard</i>	1 per 300 square feet of offices, plus 0.9 per 1,000 square feet of <i>indoor storage</i> or repair areas	—
<i>Public agency archives</i>	0.9 per 1,000 square feet of storage area, plus 1 per 50 square feet of waiting/reviewing areas	—
Courts	3 per courtroom, plus 1 per 50 square feet of fixed seat or assembly areas	3 per courtroom, plus 1 per 50 square feet of fixed seat or assembly areas
Police facility	(city manager)	(city manager)
Fire facility	(city manager)	(city manager)
<i>Construction and trade</i>	1 per 300 square feet of office, plus 1 per 3,000 square feet of storage area	1 per 300 square feet of office, plus 1 per 3,000 square feet of storage area
Warehousing and storage	1 per 300 square feet of office, plus 0.9 per 1,000 square feet of storage area	1 per 300 square feet of office, plus 0.9 per 1,000 square feet of storage area
<i>Self-service storage</i>	1 per 3,500 square feet of storage area, plus 2 for any resident director's unit	1 per 3,500 square feet of storage area, plus 2 for any resident director's unit
Outdoor advertising services	1 per 300 square feet of office, plus 0.9 per 1,000 square feet of storage area	—

LAND USE	MINIMUM PARKING SPACES REQUIRED Citywide, Except in Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE	MINIMUM PARKING SPACES REQUIRED Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE
<i>Heavy equipment repair</i>	1 per 300 square feet of office, plus 0.9 per 1,000 square feet of indoor repair areas	–
Office	1 per 300 square feet	1 per 300 square feet
RETAIL/WHOLESALE:		
<i>Retail land uses:</i>	1 per 300 square feet	1 per 300 square feet
Exceptions:		
Food stores, less than 15,000 square feet	3 plus 1 per 350 square feet	3 plus 1 per 350 square feet
Gasoline service stations w/o grocery	3 per facility, plus 1 per service bay	3 per facility, plus 1 per service bay
Gasoline service stations w/grocery, no service bays	1 per facility, plus 1 per 300 square feet of store	1 per facility, plus 1 per 300 square feet of store
Restaurants	1 per 75 square feet in dining or lounge areas	1 per 75 square feet in dining or lounge areas
Wholesale trade <i>uses</i>	0.9 per 1,000 square feet	0.9 per 1,000 square feet
Retail and wholesale trade mixed use	1 per 300 square feet	1 per 300 square feet
MANUFACTURING:		
<i>Manufacturing land uses</i>	0.9 per 1,000 square feet	–
Winery/brewery	0.9 per 1,000 square feet, plus 1 per 50 square feet of tasting area	–
RESOURCES:		
<i>Resource land uses</i>	(city manager)	–
REGIONAL:		
<i>Regional land uses</i>	(city manager)	(city manager)

B. An *applicant* may request a modification of the minimum required number of *parking spaces* by providing a parking demand analysis demonstrating that parking demand can be met with a reduced parking requirement. In such cases, the *city manager* may approve a reduction of up to 50 percent of the minimum required number of spaces.

C. When the *city* has received a shell building permit application, off-street parking requirements shall be based on the possible tenant improvements or *uses* authorized by the zone designation and compatible with the limitations of the

shell permit. When the range of possible *uses* result in different parking requirements, the *city manager* will establish the amount of parking based on a likely range of *uses*.

D. Where other provisions of this code stipulate maximum parking allowed or reduced minimum parking requirements, those provisions shall apply.

E. In any *development* required to provide six or more *parking spaces*, bicycle parking shall be provided. Bicycle parking shall be bike rack or locker-type parking facilities unless otherwise specified.

1. Off-street parking areas shall contain at least one bicycle parking space for every 12 spaces required for motor vehicles except as follows:

a. The *city manager* may reduce bike rack parking facilities for patrons when it is demonstrated that bicycle activity will not occur at that location.

b. The *city manager* may require additional spaces when it is determined that the *use* or its location will generate a high volume of bicycle activity. Such a determination will include but not be limited to the following *uses*:

(1) *Park/playfield*;

(2) *Marina*;

(3) *Library/museum/arboretum*;

(4) *Elementary/secondary school*;

(5) *Sports club*; or

(6) *Retail business* (when located along a developed bicycle *trail* or designated bicycle route).

2. Bicycle facilities for patrons shall be located within 100 feet of the building entrance and shall be designed to allow either a bicycle frame or wheels to be locked to a *structure* attached to the pavement.

3. All bicycle parking and storage shall be located in safe, visible areas that do not impede pedestrian or vehicle traffic flow, and shall be well lit for nighttime use.

4. When more than 10 people are employed on-site, enclosed locker-type parking facilities for employees shall be provided. The *city manager* shall allocate the required number of parking spaces between bike rack parking and enclosed locker-type parking facilities.

5. One indoor bicycle storage space shall be provided for every two *dwelling units* in *townhouse* and *apartment* residential *uses*, unless individual garages are provided for every unit. The *city manager* may reduce the number of bike rack parking spaces if *indoor storage* facilities are available to all residents.

F. Exceedance of Minimum Parking – Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE. Provision of parking in excess of the minimum parking requirements shall require the excess parking be included in a structured parking garage, or under *building* and screened from the *street frontage*, unless the additional parking is associated with a phased, *mixed use development* and is interim in nature.

G. *Tree Retention* – DC and DR Zones. Where an *applicant* proposes retention of *trees* in accordance with KMC 18.35.100(G) in the DC and DR zones, the *city manager* may reduce parking requirements by one *parking space* for every two *significant trees* that are saved in excess of the significant tree ordinance requirements. [Ord. 03-0175 § 34; Ord. 98-0026 §§ 1, 2 (KCC 21A.18.030).]

18.40.040

Shared parking requirements.

The amount of off-street parking required by KMC 18.40.030 may be reduced by an amount determined by the *city manager* when shared parking facilities for two or more *uses* are proposed, provided:

A. The total parking area exceeds 5,000 square feet;

B. The parking facilities are designed and developed as a single on-site common parking facility, or as a system of on-site and off-site facilities, if all facilities are connected with improved pedestrian facilities and no *building* or *use* involved is more than 800 feet from the most remote shared facility;

C. The amount of the reduction shall not exceed 10 percent for each *use*, unless:

1. The normal hours of operation for each *use* are separated by at least one hour; or

2. A parking demand study is prepared by a professional traffic engineer and submitted by the *applicant* documenting that the hours of actual parking demand for the proposed *uses* will not conflict and those *uses* will be served by adequate parking if shared parking reductions are authorized;

3. The *use* is a *mixed use development* pursuant to KMC 18.50.120, in which case a 25 percent reduction may be granted;

4. The *city manager* will determine the amount of reduction subject to subsection (D) of this section.

D. The total number of *parking spaces* in the common parking facility is not less than the minimum required spaces for any single use;

E. A covenant or other contract for shared parking between the cooperating property owners is approved by the *city manager*. This covenant or contract must be recorded with the *city* as a deed restriction on both properties and cannot be modified or revoked without the consent of the *city manager*; and

F. If any requirements for shared parking are violated, the affected property owners must provide a remedy satisfactory to the *city manager* or provide the full amount of required off-street parking for each use, in accordance with the requirements of this chapter, unless a satisfactory alternative remedy is approved by the *city manager*. [Ord. 03-0175 § 35; Ord. 98-0026 §§ 1, 2 (KCC 21A.18.040).]

18.40.050

Exceptions for community residential facilities (CRF) and senior citizen assisted living.

A. The minimum requirement of one off-street *parking space* per two bedrooms for *CRFs* and one off-street *parking space* per two *senior citizen assisted living* units may be reduced by up to 50 percent, as determined by the *city manager* based on the following considerations:

1. Availability of *private*, convenient transportation services to meet the needs of the residents;
2. Accessibility to and frequency of public transportation; and
3. Pedestrian access to health, medical, and shopping facilities.

B. If a *CRF* facility or *senior citizen assisted living* facility is no longer used for such purposes, additional off-street *parking spaces* shall be required in compliance with this chapter prior to the issuance of a new certificate of occupancy. [Ord. 98-0026 §§ 1, 2 (KCC 21A.18.050).]

18.40.060

Parking for the disabled.

Off-street parking and access for physically disabled persons shall be provided in accordance with the regulations adopted pursuant to Chapter 19.27 RCW, State Building Code, and Chapter 70.92 RCW, Public Buildings – Provisions for Aged and Disabled. See Chapter 11 of the International Building Code as adopted by the *city*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.18.060).]

18.40.070

Loading space requirements.

A. Every nonresidential *building* engaged in retail, wholesale, manufacturing or storage activities, excluding *self-service storage* facilities, shall provide *loading spaces* in accordance with the standards listed below.

GROSS FLOOR AREA	REQUIRED NUMBER OF LOADING SPACES
10,000 to 16,000 square feet	1
16,001 to 40,000 square feet	2
40,001 to 64,000 square feet	3
64,001 to 96,000 square feet	4
96,001 to 128,000 square feet	5

GROSS FLOOR AREA	REQUIRED NUMBER OF LOADING SPACES
128,001 to 160,000 square feet	6
160,001 to 196,000 square feet	7
For each additional 36,000 square feet	1 additional

B. Every *building* engaged in *hotel*, office *building*, restaurant, hospital, auditorium, convention hall, exhibition hall, sports arena/stadium or other similar *use* shall provide *loading spaces* in accordance with the standards listed below.

GROSS FLOOR AREA	REQUIRED NUMBER OF LOADING SPACES
40,000 to 60,000 square feet	1
60,001 to 160,000 square feet	2
160,001 to 264,000 square feet	3
264,001 to 388,000 square feet	4
388,001 to 520,000 square feet	5
520,001 to 652,000 square feet	6
652,001 to 784,000 square feet	7
784,001 to 920,000 square feet	8
For each additional 140,000 square feet	1 additional

C. Each *loading space* required by this section shall be a minimum of 10 feet wide, 30 feet long, and have an unobstructed vertical clearance of 14 feet, 6 inches, and shall be surfaced, improved and maintained as required by this chapter. *Loading spaces* shall be located so that trucks shall not obstruct pedestrian or vehicle traffic movement or project into any public right-of-way. All *loading space* areas shall be separated from parking areas and shall be designated as truck *loading spaces*.

D. Any *loading space* located within 100 feet of areas zoned for residential *use* shall be screened and operated as necessary to reduce noise and visual impacts. Noise mitigation measures may include architectural or structural barriers, berms, walls, or restrictions on the hours of operation.

E. Multi-story *self-service storage* facilities shall provide two *loading spaces*, and single-story facilities one *loading space*, adjacent to each building entrance that provides common access to interior storage units. Each loading berth shall measure not less than 25 feet by 12 feet with an unobstructed vertical clearance of 14 feet, 6 inches, and shall be surfaced, improved and maintained as required by this chapter. Any floor area additions or structural alterations to a *building* shall be required to provide *loading space* or spaces as set forth in this chapter. [Ord. 98-0026 §§ 1, 2 (KCC 21A.18.070).]

18.40.080

Stacking spaces for drive-through facilities.

A. A stacking space shall be an area measuring eight feet by 20 feet with direct forward access to a service window of a drive-through facility. A stacking space shall be located to prevent any vehicles from extending onto the public right-of-way, or interfering with any pedestrian circulation, traffic maneuvering, or other *parking space* areas. Stacking spaces for drive-through or drive-in *uses* may not be counted as required *parking spaces*.

B. *Uses* providing drive-up or *drive-through services* shall provide vehicle stacking spaces as follows:

1. For each drive-through lane of a bank/financial institution, business service, or other drive-through *use* not listed, a minimum of five stacking spaces shall be provided; and

2. For each drive-through lane of a restaurant, a minimum of seven stacking spaces shall be provided. [Ord. 98-0026 §§ 1, 2 (KCC 21A.18.080).]

18.40.090

Transit and rideshare provisions.

A. *Government/business services* and *manufacturing land uses*, hospitals, *high schools*, *vocational schools*, universities and *specialized instruction schools* shall be required to reserve one *parking space* of every 20 required spaces for rideshare parking as follows:

1. The *parking spaces* shall be located closer to the primary employee entrance than any other employee parking except disabled;

2. Reserved areas shall have markings and *signs* indicating that the space is reserved; and

3. Parking in reserved areas shall be limited to vanpools and carpools established through rideshare programs by public agencies and to vehicles meeting minimum rideshare qualifications set by the employer;

B. The *city manager* may reduce the number of required off-street *parking spaces* when one or more scheduled transit routes provide service within one-quarter mile (1,320 feet) of the *site* as measured linearly along *streets* or other pedestrian pathways. The amount of reduction shall be based on the number of scheduled transit runs between 7:00 to 9:00 a.m. and 4:00 to 6:00 p.m. each business day up to a maximum reduction as follows:

1. Four percent for each run serving *government/business services* and *manufacturing land uses* up to a maximum of 40 percent; and

2. Two percent for each run serving *recreational/cultural*, *general services* and *retail/wholesale land uses*, up to a maximum of 20 percent; and

C. All *uses* which are located on an existing transit route and are required under the computation for required off-street *parking spaces* in KMC 18.40.030(A) to provide more than 200 *parking spaces* may be required to provide transit shelters, bus turnout lanes or other transit improvements as a condition of permit approval. *Uses* which reduce required parking under subsection (B) of this section shall provide transit shelters if transit routes adjoin the *site*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.18.090).]

18.40.100**Pedestrian and bicycle circulation and access.**

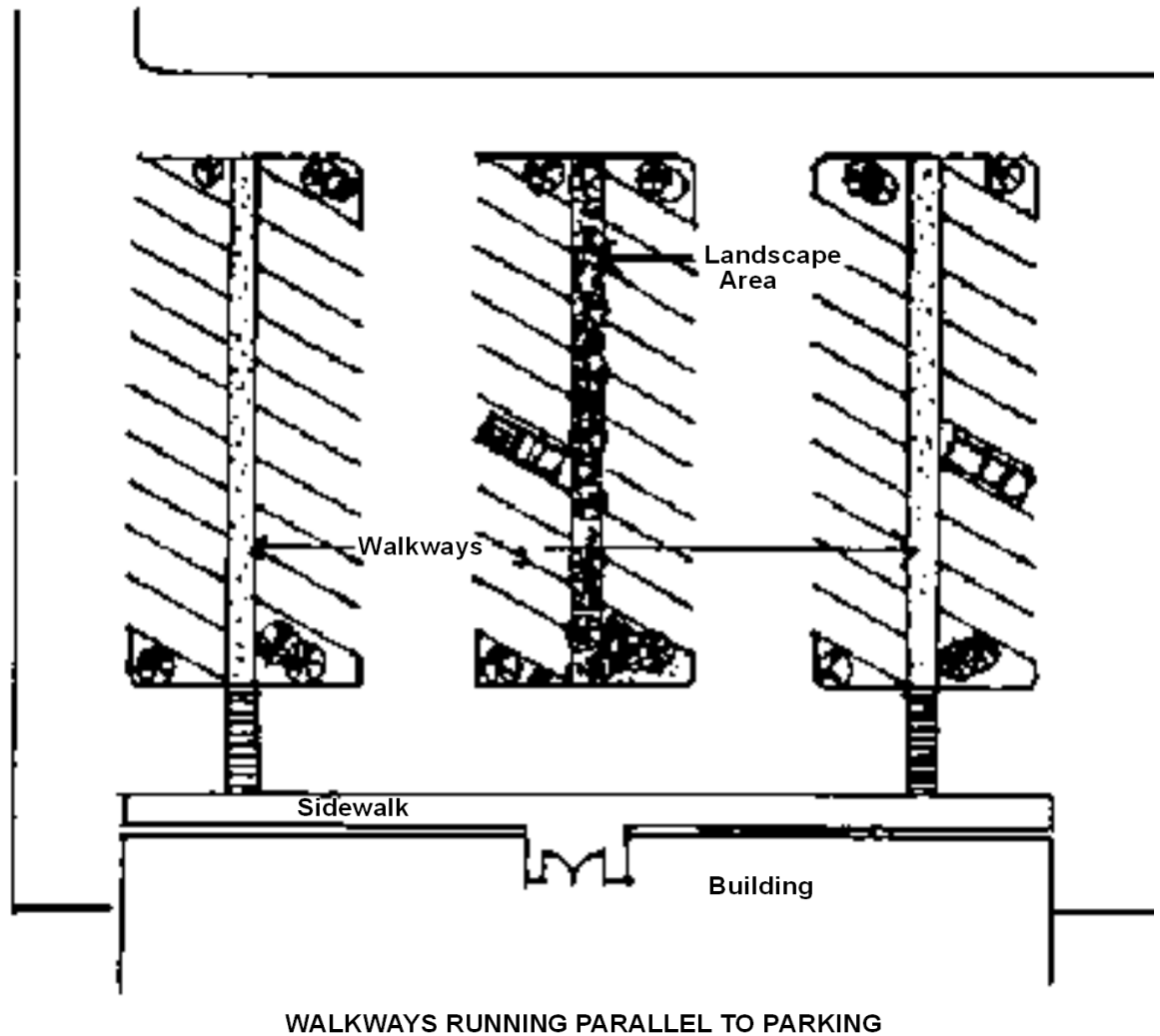
A. *Nonresidential Uses.* All permitted nonresidential *uses* shall provide pedestrian and bicycle access within and onto the *site*. Access points onto the *site* shall be provided (1) approximately every 800 to 1,000 feet along existing and proposed perimeter sidewalks and walkways, and (2) at all arrival points to the *site*, including abutting *street* intersections, crosswalks, and transit stops. In addition, access points to and from adjacent *lots* shall be coordinated to provide circulation patterns between *developments*.

B. *Residential Uses.*

1. All permitted residential *uses* of five or more *dwelling units* shall provide pedestrian and bicycle access within and onto the *site*. Access points onto the *site* shall be provided (a) approximately every 800 to 1,000 feet along existing and proposed perimeter sidewalks and walkways, and (b) at all arrival points to the *site*, including abutting *street* intersections, crosswalks, and transit and school bus stops. In addition, access points to and from adjacent *lots* shall be coordinated to provide circulation patterns between *sites*.

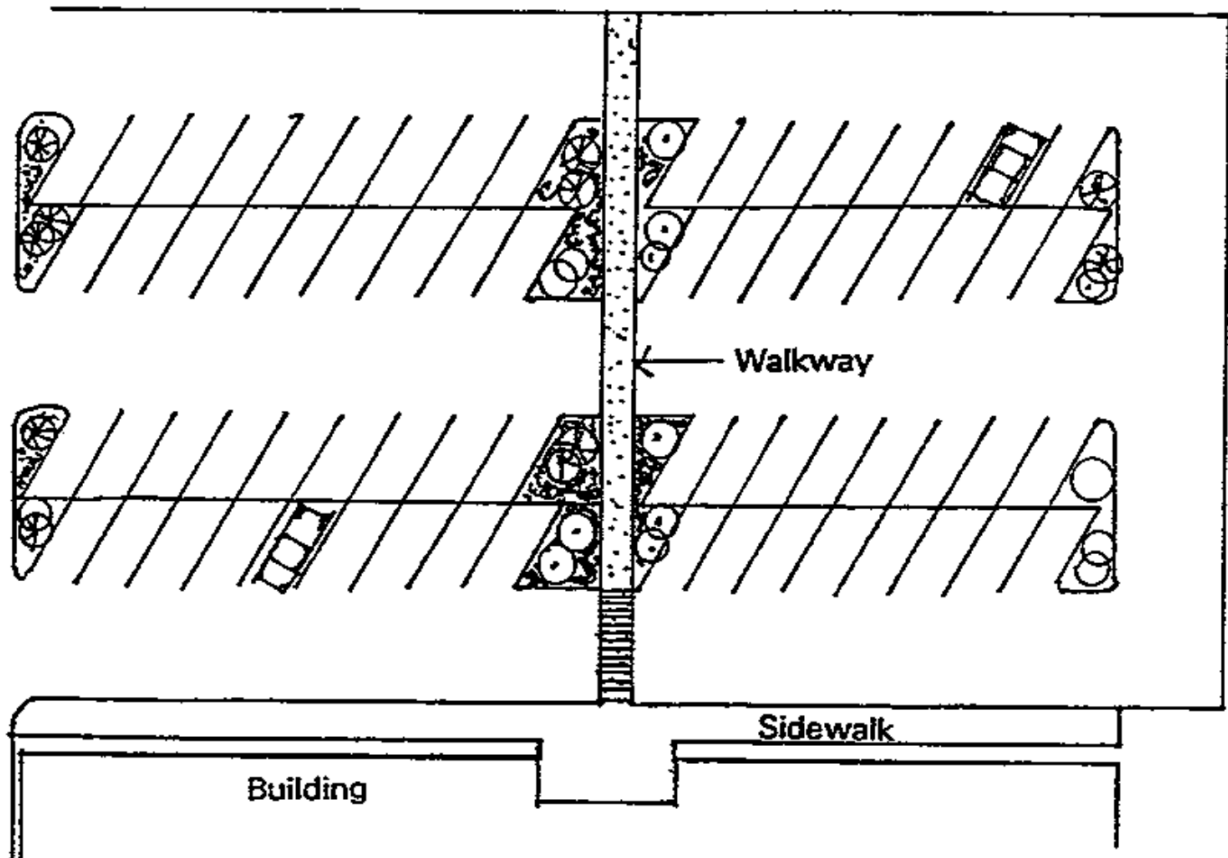
2. Residential *uses* of five or more *dwelling units* shall provide for nonmotorized circulation between cul-de-sacs or groups of *buildings* to allow pedestrian and bicycle access within and through the *development* to adjacent activity centers, *parks*, common tracts, dedicated open space intended for active recreation, schools or other public facilities, transit and school bus stops, and public *streets*.

3. Access shall only be required to school bus stops that are within or adjacent to a proposed residential *use* of five or more *dwelling units* and that are identified by the affected *school district* in response to a notice of application.



C. Walkways shall form an on-site circulation system that minimizes the conflict between pedestrians and traffic at all points of pedestrian access to on-site parking and building entrances. Walkways shall be provided when the pedestrian access point onto the *site*, or any *parking space*, is more than 75 feet from the building entrance or principal on-site destination and as follows:

1. All *developments* which contain more than one *building* shall provide walkways between the principal entrances of the *buildings*;
2. All nonresidential *buildings* set back more than 100 feet from the public right-of-way shall provide for direct pedestrian access from the *building* to *buildings* on adjacent *lots*; and
3. Walkways across parking areas shall be located as follows:
 - a. Walkways running parallel to the parking rows shall be provided for every six rows. Rows without walkways shall be landscaped or contain barriers or other means to encourage pedestrians to use the walkways; and
 - b. Walkways running perpendicular to the parking rows shall be no further than 20 *parking spaces*. Landscaping, barriers or other means shall be provided between the parking rows to encourage pedestrians to use the walkways.



WALKWAYS RUNNING PERPENDICULAR TO PARKING

D. Pedestrian and bicycle access and walkways shall meet the following minimum design standards:

1. Access and walkways shall be well lit and physically separated from driveways and *parking spaces* by landscaping, *berms*, barriers, grade separation or other means to protect pedestrians from vehicular traffic;
2. Access and walkways shall be a minimum of 48 inches of unobstructed width and meet the surfacing standards of the *city street* standards for walkways or sidewalks;

3. The minimum standard for walkways required to be accessible for persons with disabilities shall be designed and constructed to comply with the current State Building Code regulations for barrier-free accessibility;

4. A crosswalk shall be required when a walkway crosses a driveway or a paved area accessible to vehicles.

E. Blocks in excess of 660 feet shall be provided with a crosswalk at the approximate midpoint of the block.

F. The *city manager* may waive or modify the requirements of this section when:

1. Existing or proposed improvements would create an unsafe condition or security concern;
2. There are topographical constraints, or existing or required *structures* effectively block access;
3. The *site* is not contiguous to an activity center, *park*, common tract, dedicated *open space*, school, transit stop or other public facility;
4. The *land use* would not generate the need for pedestrian or bicycle access; or
5. The public is not allowed access to the subject *land use*.

The *city manager's* waiver may not be used to modify or waive the requirements of KMC 18.40.100 relating to sidewalks and safe walking conditions for students.

G. The provisions of this section shall not apply on *school district* property. [Ord. 98-0026 §§ 1, 2 (KCC 21A.18.100).]

18.40.110

Off-street parking plan design standards.

A. Off-street parking areas shall not be located more than 600 feet from the *building* they are required to serve for all *uses* except those specified as follows; where an off-street parking area does not abut the *building* it serves, the required maximum distance shall be measured from the nearest building entrance that the parking area serves:

1. For all single detached dwellings the *parking spaces* shall be located on the same *lot* they are required to serve;

2. For all other residential dwellings at least a portion of parking areas shall be located within 150 feet from the *building* or *building(s)* they are required to serve;

3. For all nonresidential *uses* permitted in residential zones, the *parking spaces* shall be located on the same *lot* they are required to serve and at least a portion of parking areas shall be located within 150 feet from the nearest building entrance they are required to serve;

4. In the community business and neighborhood business zones, parking lots shall be located to the rear or sides of *buildings*. Relief from this subsection (A)(4) of this section may be granted by the *city manager* only if the *applicant* can demonstrate that there is no practical site design to meet this requirement. The *city manager* may allow only the number of *parking spaces* that cannot be accommodated to the rear or sides of *buildings* to be located to the front of *buildings*;

5. Parking lots shall be so arranged as to permit the internal circulation of vehicles between parking aisles without re-entering adjoining public *streets*; and

6. Parking for the disabled shall be provided in accordance with KMC 18.40.060.

B. The minimum *parking space* and aisle dimensions for the most common parking angles are shown on the table in this subsection. For parking angles other than those shown on the chart, the minimum *parking space* and aisle dimensions shall be determined by the *city manager*. Regardless of the parking angle, one-way aisles shall be at least 10 feet wide, and two-way aisles shall be at least 20 feet wide. If dead-end aisles are used in the parking layout, they shall be constructed as two-way aisles. Parking plans for angle parking shall use space widths no less than eight feet, six inches for a standard *parking space* design and eight feet for a compact car *parking space* design.

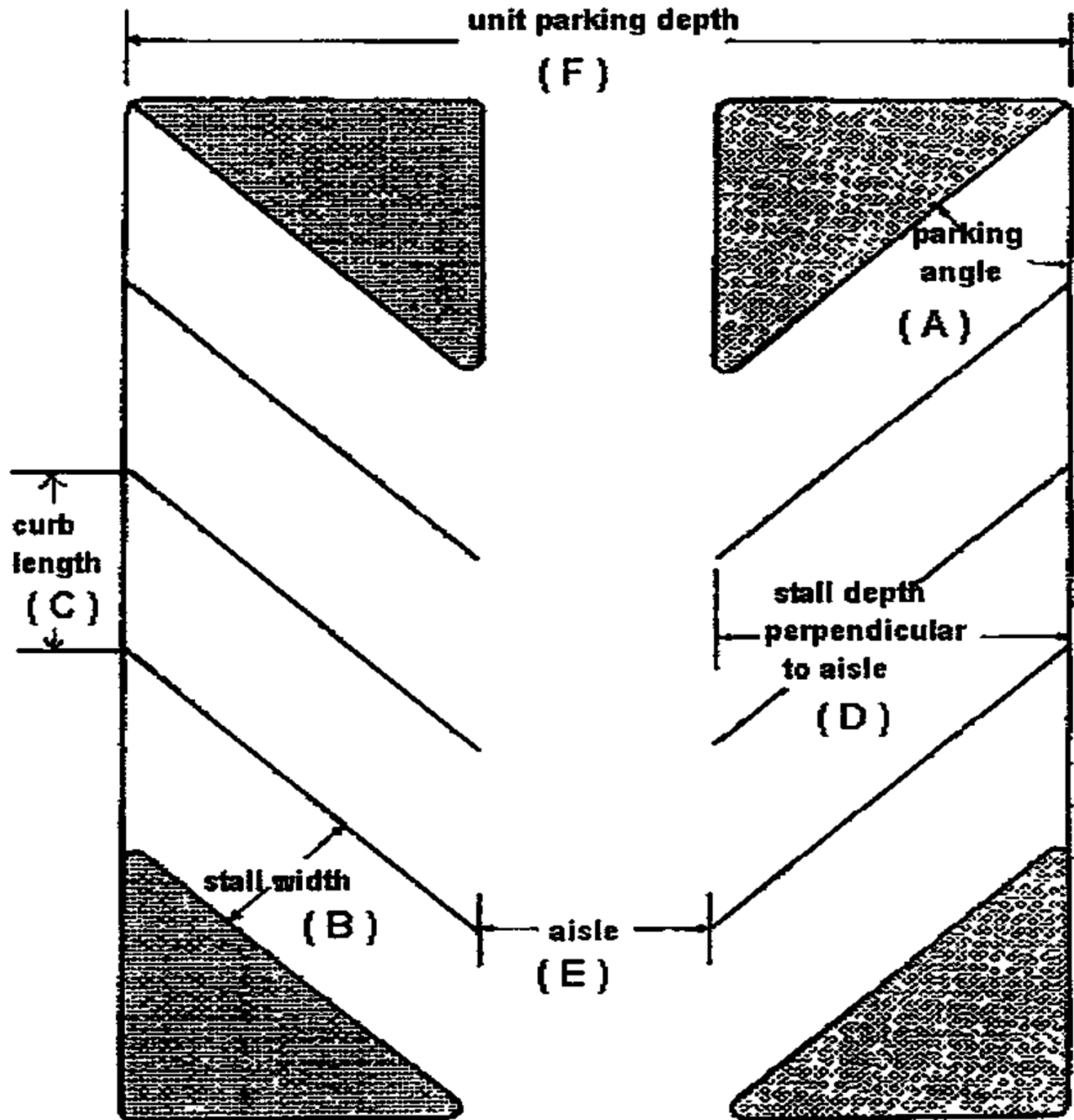
MINIMUM PARKING STALL AND AISLE DIMENSIONS

A	B	C	D	E		F	
PARKING ANGLE	STALL WIDTH	CURB LENGTH	STALL DEPTH	AISLE WIDTH		UNIT DEPTH	
				1-WAY	2-WAY	1-WAY	2-WAY
0	8.0*	20.0*	8.0	12.0	20.0	**	**
	Min 8.5	22.5	8.5	12.0	20.0	29.0	37.0
	Desired 9.0	22.5	9.0	12.0	20.0	30.0	38.0
30	8.0*	16.0*	15.0	10.0	20.0	**	**
	Min 8.5	17.0	16.5	10.0	20.0	42.0	53.0
	Desired 9.0	18.0	17.0	10.0	20.0	44.0	54.0
45	8.0*	11.5*	17.0*	12.0	20.0	**	**
	Min 8.5	12.0		12.0	20.0	50.0	58.0
	Desired 9.0	12.5		12.0	20.0	51.0	59.0
60	8.0*	9.6*	18.0	18.0	20.0	**	**
	Min 8.5	10.0	20.0	18.0	20.0	58.0	60.0
	Desired 9.0	10.5	21.0	18.0	20.0	60.0	62.0
90	8.0*	8.0*	16.0*	24.0	24.0	**	**
	Min 8.5	8.5	18.0	24.0	24.0	60.0	60.0
	Desired 9.0	9.0	18.0	23.0	24.0	60.0	60.0

* for compact stalls only

** variable with compact and standard combinations

NOMENCLATURE OF OFF-STREET PARKING AREA



Revised 7/12/11

C. Any *parking spaces* abutting a required landscaped area on the driver or passenger side of the vehicle shall provide an additional 18 inches above the minimum space width requirement to provide a place to step other than in the landscaped area. The additional width shall be separated from the adjacent *parking space* by a parking space division stripe.

D. The *parking space* depth may be reduced if vehicles overhang a walkway or landscaping under the following conditions:

1. Wheelstops or curbs are installed;
2. The remaining walkway provides a minimum of 48 inches of unimpeded passageway for pedestrians;
3. The amount of space depth reduction is limited to a maximum of 18 inches; and
4. Landscaping is designed in accordance with KMC 18.35.070(E).

E. Driveways providing ingress and egress between off-street parking areas and abutting *streets* shall be designed, located and constructed in accordance with the provisions of Chapter 12.50 KMC, Street Standards. Driveways for *single detached dwelling units*, no more than 20 feet in width, may cross required *setbacks* or landscaped areas to provide access between the off-street parking areas and the *street*, provided no more than 15 percent of the required *landscaping* or *setback* area is eliminated by the driveway. *Joint use driveways* may be located within required *landscaping* or *setback* areas. Driveways for all other *developments* may cross or be located within required *setbacks* or landscaped areas to provide access between the off-street parking areas and the *street*, if no more than 10 percent of the required *landscaping* is displaced by the driveway and the driveway is located no closer than five feet from any property line except where intersecting the *street*.

F. *Parking spaces* required under this title shall be located as follows:

1. For *single detached dwelling units* the required *parking spaces* shall be outside of any required *setbacks* or *landscaping*, but driveways crossing *setbacks* and required *landscaping* may be used for parking. However, if the driveway is a *joint use driveway*, no vehicle parked on the driveway shall obstruct any joint user's access to the driveway or *parking spaces*;

2. For all other *developments*, *parking spaces* may be permitted by the *city manager* in *setback* areas in accordance with an approved landscape plan; and

3. For nonresidential uses in residential zones, parking is permitted in *setback* areas in accordance with KMC 18.21.060.

G. Lighting shall be provided for safety of traffic and pedestrian circulation on the *site*. It shall be designed to minimize direct illumination of abutting properties and adjacent *streets*. The *city manager* shall have the authority to waive the requirement to provide lighting.

H. Tandem or end-to-end parking is allowed in residential *developments*. *Apartment* or *townhouse developments* may have tandem parking areas for each *dwelling unit* but shall not combine parking for separate *dwelling units* in tandem parking areas.

I. All vehicle parking and storage must be in a garage, carport or on an approved *impervious surface*. Any *impervious surface* used for vehicle parking or storage must have direct and unobstructed driveway access.

J. The total number of vehicles parked or stored outside of a *building* on a single-family *lot* in the R-4 through R-6 zones, excluding *recreational vehicles* and trailers, shall not exceed six vehicles on *lots* 12,500 square feet or less and eight vehicles on *lots* greater than 12,500 square feet.

K. Vanpool or carpool parking areas shall meet the following minimum design standards:

1. A minimum vertical clearance of seven feet, three inches shall be provided to accommodate van vehicles if designated vanpool or carpool *parking spaces* are located in a parking structure; and

2. A minimum turning radius of 26 feet, 4 inches with a minimum turning diameter, curb to curb, of 52 feet, 5 inches shall be provided from parking aisles to adjacent carpool or vanpool *parking spaces*.

L. Direct access from the *street* right-of-way to off-street parking areas shall be subject to KMC 18.45.070.

M. No dead-end *alley* may provide access to more than eight off-street *parking spaces*.

N. Any parking stalls located in enclosed *buildings* must be totally within the enclosed *building*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.18.110).]

18.40.120

Off-street parking construction standards.

A. Off-street parking areas shall be paved in accordance with *city* street standards unless otherwise approved by the *city manager*.

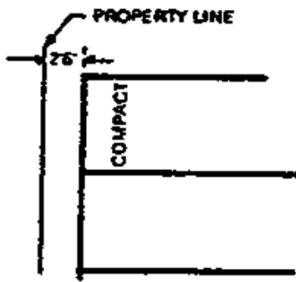
EXHIBIT 1

B. *Grading* work for parking areas shall meet the requirements of KMC Title 15. Drainage and erosion/sedimentation control facilities shall be provided in accordance with Chapter 13.35 KMC.

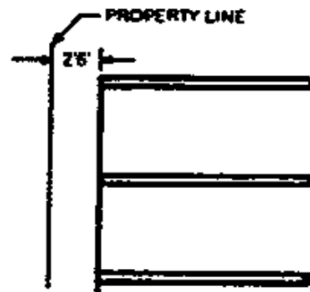
C. Paved parking areas shall have *parking spaces* marked by surface paint lines or suitable substitute traffic marking material in accordance with the Washington State Department of Transportation Standards. Wheel stops are required where a parked vehicle would encroach on adjacent property, pedestrian access or circulation areas, right-of-way or landscaped areas. Typically approved markings and wheel stop locations are illustrated below.

STALL MARKINGS AND WHEEL STOP LOCATIONS

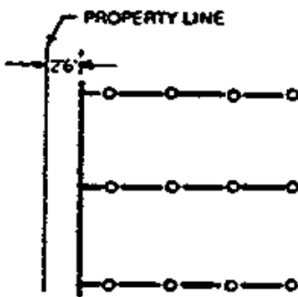
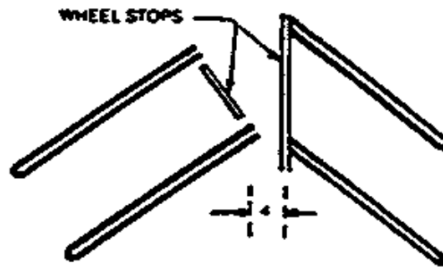
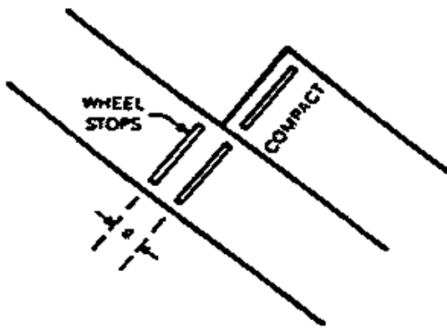
HIBIT 1



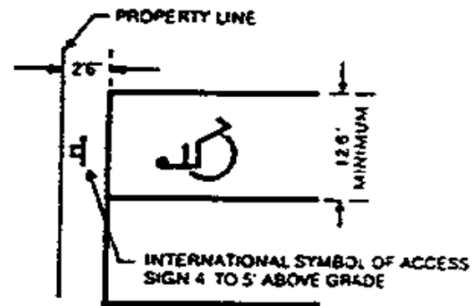
COMPACT MARKING



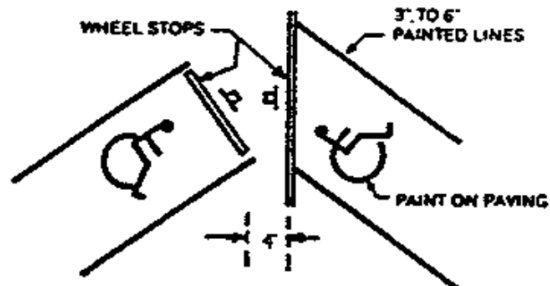
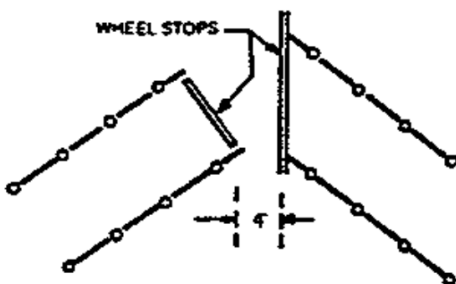
PAINTED HORSESHOE MARKING



METAL OR PLASTIC TRAFFIC MARKING



HANDICAP MARKING



Revised 7/12/11

[Ord. 98-0026 §§ 1, 2 (KCC 21A.18.120).]

18.40.130

Compact car allowance requirements.

In any *development* containing more than 20 *parking spaces*, up to 50 percent of the total number of spaces may be sized to accommodate compact cars, subject to the following:

A. Each space shall be clearly identified as a compact car space by painting the word “COMPACT” in capital letters, a minimum of eight inches high, on the pavement at the base of the *parking space* and centered between the striping;

B. Aisle widths shall conform to the standards set for standard size cars; and

C. *Apartment developments* with less than 20 *parking spaces* may designate up to 40 percent of the required *parking spaces* as compact spaces. [Ord. 98-0026 §§ 1, 2 (KCC 21A.18.130).]

18.40.140

Internal circulation road standards.

Internal access roads to off-street parking areas shall conform to city street standards set forth in Chapter 12.50 KMC. [Ord. 98-0026 §§ 1, 2 (KCC 21A.18.140).]

Chapter 18.42

DEVELOPMENT STANDARDS – SIGNS

Sections:

- 18.42.010 Purpose.
- 18.42.020 Permit requirements.
- 18.42.030 Exempt signs.
- 18.42.040 Prohibited signs.
- 18.42.050 Sign area calculation.
- 18.42.060 General sign requirements.
- 18.42.070 Community bulletin board signs.
- 18.42.080 A-frame/sandwich board signs.
- 18.42.090 Residential zone signs.
- 18.42.100 Downtown commercial zone signs.
- 18.42.110 Neighborhood business zone signs.
- 18.42.120 Community business zone signs.
- 18.42.130 Regional business zone signs.
- 18.42.135 Signs in the public/semi-public, parks and golf course zones.
- 18.42.140 Signs or displays of limited duration.
- 18.42.150 Billboards – Location and height standards.
- 18.42.160 Billboards – General requirements.
- 18.42.170 Billboards – Special restrictions in the CB zone.
- 18.42.180 Billboards – Alteration or relocation limitations.
- 18.42.190 Billboards – View and vegetative screening protections.
- 18.42.200 Billboard free areas.

18.42.010

Purpose.

The purpose of this chapter is to enhance the visual environment of the *city* by:

A. Establishing standards that regulate the type, number, location, size, and lighting of *signs*;

B. Recognizing the private purposes of *signs* for the identification of businesses and promotion of products and services; and

C. Recognizing the public purposes of *signs* which includes considerations of traffic safety, economic and aesthetic welfare. [Ord. 98-0026 §§ 1, 2 (KCC 21A.20.010).]

18.42.020

Permit requirements.

A. Except as otherwise permitted by this chapter, no *sign* shall be erected, altered or relocated without approval by the *city*.

B. No building permit shall be required for repainting, cleaning, or other normal maintenance and repair of a *sign*, or for *sign* face and copy changes that do not alter the size or *structure* of the *sign*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.20.020).]

18.42.030

Exempt signs.

The following *signs* or displays are exempted from the regulations under this chapter:

A. Historic site markers or plaques, gravestones, and address numbers;

B. *Signs* required by law, including but not limited to:

1. Official or legal notices issued and posted by any *public agency* or court; or

2. Traffic directional or warning *signs*;

C. Plaques, tablets or inscriptions indicating the name of a *building*, date of erection, or other commemorative information, which are an integral part of the *building* structure or are attached flat to the face of the *building*, which are nonilluminated, and which do not exceed four square feet in surface area;

D. *Incidental signs*, which shall not exceed two square feet in surface area; provided, that said size limitation shall not apply to *signs* providing directions, warnings or information when established and maintained by a *public agency*;

E. State or federal flags;

F. Religious symbols;

G. The flag of a commercial institution, provided no more than one flag is permitted per business premises, and further provided the flag does not exceed 20 square feet in surface area; and [Ord. 98-0026 §§ 1, 2 (KCC 21A.20.030).]

H. *Signs* or banners installed in the right-of-way by the *city* for purposes of providing information, directions, or decoration.

18.42.040

Prohibited signs.

Except as indicated by this chapter, the following *signs* or displays are prohibited:

A. *Portable signs* including, but not limited to, mobile readerboard *signs*, but excluding A-frame and sandwich board *signs* and other *signs* permitted under KMC 18.42.080 and 18.42.140;

B. *Private signs* on utility poles;

C. *Signs* which, by reason of their size, location, movement, content, coloring or manner of illumination may be confused with traffic control *signs* or signals;

D. *Signs* located in the public right-of-way, except where permitted in this chapter or otherwise by law;

E. Posters, pennants, banners, strings of lights, blinking lights, balloons, searchlights and other displays of a carnival nature; except as architectural features, or on a limited basis as seasonal decorations or as provided for in KMC 18.42.140 as grand opening displays; and

F. *Changing message center signs*, where the message changes more frequently than every three minutes. [Ord. 02-0155 § 1; Ord. 98-0026 §§ 1, 2 (KCC 21A.20.040).]

18.42.050

Sign area calculation.

A. *Sign* area for nonmonument *freestanding signs* shall be calculated by determining the total surface area of the *sign* as viewed from any single vantage point, excluding support structures.

B. *Sign* area for letters or symbols painted or mounted directly on walls or *monument signs* or on the sloping portion of a roof shall be calculated by measuring the smallest single rectangle which will enclose the combined letters and symbols.

C. *Sign* area for *signs* contained entirely within a cabinet and mounted on a wall, roof or monument shall be calculated by measuring the entire area of the cabinet. [Ord. 98-0026 §§ 1, 2 (KCC 21A.20.050).]

18.42.060

General sign requirements.

A. All *signs*, except *billboards*, *community bulletin boards*, community identification *signs*, political *signs*, temporary real estate “A-frame” *signs* and special event *signs*, shall be *on-premises signs*; provided, that *uses* located on *lots* without public *street frontage* in business and office zones may have one *off-premises directional sign* of no more than 16 square feet.

B. *Fuel price signs* shall not be included in *sign* area or number limitations of KMC 18.42.100 through 18.42.135, provided such *signs* do not exceed 20 square feet per *street frontage*.

C. Projecting and *awning signs* shall not be permitted for *uses* in the residential zones. *Signs* mounted on the sloping portion of roofs shall not be permitted in the residential, downtown residential, and downtown commercial zones. Allowances for projecting and *awning signs* in the downtown commercial zone are found in KMC 18.42.100. In other zones, projecting and *awning signs* and *signs* mounted on the sloping portion of roofs may be used in lieu of *wall signs*, provided:

1. They maintain a minimum clearance of eight feet above finished grade;
2. They do not project more than six feet perpendicular from the supporting *building facade*;
3. They meet the standards of subsection (J) of this section if mounted on the roof of a *building*; and
4. They shall not exceed the number or size permitted for *wall signs* in a zone.

D. *Changing message center signs*, and *time and temperature signs*, which can be a wall or *freestanding sign*, shall not exceed the size permitted for a wall or *freestanding sign*, and shall be permitted only in the NB, CB and RB zones. *Changing message center signs* and *time and temperature signs* shall not exceed the maximum *sign* height permitted in the zone. E. *Directional signs* shall not be included in the *sign* area or number limitation of KMC 18.42.080; provided, they shall not exceed six square feet in surface area and are limited to one for each entrance or exit to surface parking areas or parking structure.

F. *Sign Illumination and Glare*.

1. All *signs* in the NB, CB, RB or DC zone districts may be illuminated. *Signs* in all other zones may be indirectly illuminated, provided the light source for *indirectly illuminated signs* shall be no farther away from the *sign* than the height of the *sign*;

2. *Indirectly illuminated signs* shall be arranged so that no direct rays of light are projected from such artificial source into residences or any *street right-of-way*;

3. Electrical requirements for *signs* shall be governed by Chapter 19.28 RCW and WAC 296- 46-910; and

4. *Signs* with an on/off operation shall be permitted only in the CB and RB zones.

G. Maximum height for *wall signs* shall not extend above the highest exterior wall or *structure* upon which the *sign* is located, except in the DC zone which is governed by KMC 18.42.100.

H. Maximum height for *projecting signs* shall not extend above the highest exterior wall upon which the *projecting sign* is located.

I. Maximum height for *awning signs* shall not extend above the height of the awning upon which the *awning sign* is located.

J. Any *sign* attached to the sloping surface of a roof shall be installed or erected in such a manner that there are no visible support structures, shall appear to be part of the *building* itself, and shall not extend above the roof ridge line of the portion of the roof upon which the *sign* is attached.

K. Except as otherwise permitted by this chapter, *off-premises directional signs* shall not exceed four square feet in *sign* area.

L. *Mixed use developments* in the NB, CB, DC or RB zones are permitted one permanent residential identification *sign* not exceeding 32 square feet in addition to the maximum *sign* area requirements in the zone where the *mixed use development* is located. [Ord. 08-0293 § 2; Ord. 07-0267 § 21; Ord. 03-0175 § 36; Ord. 98-0026 §§ 1, 2 (KCC 21A.20.060).]

18.42.070**Community bulletin board signs.**

One *community bulletin board sign* is permitted at public schools, in addition to other permitted public school signage. *Community bulletin board signs* are subject to the following provisions:

- A. *Community bulletin board signs* shall not exceed 32 square feet per side;
- B. *Community bulletin board signs* may be internally illuminated;
- C. *Community bulletin board signs* may be electrically controlled and may contain messages that change at intervals of five seconds or greater. All such *signs* shall be turned off between the hours of 10:00 p.m. and 6:00 a.m.;
- D. *Community bulletin board sign* messages are limited to those notifying the public of community events and public services. No commercial advertising shall be permitted on *community bulletin board signs*. Lettering shall be only one color;
- E. *Community bulletin board signs* shall not be located in the right-of-way and shall not impede pedestrian or vehicular traffic;
- F. *Wall signs* and *freestanding signs* are permitted; and
- G. The maximum height for *freestanding signs* shall not exceed 15 feet. [Ord. 08-0293 § 2; Ord. 04-0211 § 1; Ord. 03-0175 § 37; Ord. 98-0026 §§ 1, 2 (KCC 21A.20.065).]

18.42.080**A-frame/sandwich board signs.**

A-frame/sandwich board *signs* shall be permitted throughout the *city* provided that:

- A. *Sign* does not exceed six square feet per face;
- B. *Sign* is only displayed during business hours;
- C. *Sign* must be displayed on the property containing the business;
- D. *Sign* must not be located in the right-of-way or impede pedestrian or vehicular traffic;
- E. Only one *sign* for each *street frontage* shall be permitted, up to a maximum of two *signs*; and
- F. No banners, streamers, balloons or pennants may be attached to any *sign*. [Ord. 02-0155 § 2.]

18.42.090**Residential zone signs.**

Signs in the downtown residential and R zones are limited as follows:

A. Nonresidential Use.

- 1. One *sign* identifying nonresidential uses, not exceeding 25 square feet and not exceeding six feet in height is permitted;
- 2. Schools are permitted one *sign* per school or school facility entrance, which may be located in the *setback*. Two additional *wall signs* attached directly to the school or school facility are permitted;
- 3. *Home occupation* and *home industry signs* are limited to *wall signs* not exceeding six square feet.

B. Residential Use.

- 1. One residential identification *sign* not exceeding two square feet is permitted; and
- 2. One *permanent residential development identification sign* not exceeding 32 square feet is permitted per *development*. The maximum height for the *sign* shall be six feet. The *sign* may be freestanding or mounted on a wall, fence, or other structure. [Ord. 03-0175 § 38; Ord. 98-0026 §§ 1, 2 (KCC 21A.20.080).]

18.42.100**Downtown commercial zone signs.**

Signs in the downtown commercial zones shall be limited as follows:

- A. *Wall signs* are permitted, provided they do not total an area more than 10 percent of the *building facade* on which they are located and provided they are limited to *building facades* with *street frontage* or to *building facades* with a business entrance if the business has an exterior facade which does not face a *street*. A maximum of two *wall signs* may be permitted per allowed facade, except that multitenant *buildings* may have one *wall sign* per business. The *wall sign* shall be placed on the facade not more than 25 feet above grade, measured to the top of the *sign*, except that properties fronting SR-522 may have one *wall sign* above 25 feet above grade if the *sign* is limited to the name and/or logo of the business(es) or *development*.

B. Freestanding Signs.**1. Number and Size.**

a. One *freestanding sign* not exceeding 50 square feet is permitted for each *street frontage* of the *lot*, provided corner *lots* with a *street frontage* of less than 100 feet on each *street* shall be permitted only one *freestanding sign*. Properties fronting SR-522 may have one *freestanding sign* for the frontage along SR-522 that shall not exceed 75 square feet.

b. Properties providing *freestanding signs* no greater than five feet in height are allowed a maximum *sign* size of 60 square feet, unless located on SR-522 where such *signs* shall not exceed 85 square feet;

2. On *lots* where more than one *freestanding sign* is permitted, the *sign* area permitted for individual *freestanding signs* may be combined; provided, the combined *sign* does not exceed 80 square feet, except that properties fronting SR-522 may combine signage to a maximum of 100 square feet; and

3. The maximum height for *freestanding signs* shall be 15 feet, unless the *sign* is placed along the frontage of SR-522 when it may be a maximum of 25 feet in height.

C. *Awning Signs*. An *awning sign(s)* may be used in place of a *wall sign* or *freestanding sign*. A maximum of 50 square feet of copy may appear on the vertical face area; the drop edge of the awning shall not exceed 12 inches in height. The maximum height of an awning shall be 10 feet. Awnings may extend over the right-of-way and have clearances according to the terms of the adopted Uniform Building Code. The *awning sign* shall be unlit or externally illuminated. Directed lighting under an awning for purposes of lighting a business entrance is allowed. Backlighting of awnings for *sign* purposes shall not be permitted.

D. *Projecting Signs*. A *projecting sign(s)* may be used in place of a *wall sign* or *freestanding sign*. Such *projecting signs* shall not exceed 12 square feet in size if unlit or externally lit, or six square feet if internally lit. Such *signs* shall be located on *building facades* with *street frontage* or to *building facades* with a business entrance if the business has an exterior facade which does not face a *street*. A *projecting sign* may extend over the public right-of-way by no more than four feet from the wall it is mounted on. When projecting over a public right-of-way, a minimum of eight feet clearance above the surface of the sidewalk is required. [Ord. 08-0293 § 2; Ord. 03-0175 § 39; Ord. 98-0026 §§ 1, 2 (KCC 21A.20.090).]

18.42.110**Neighborhood business zone signs.**

Signs in the NB zones shall be limited as follows:

A. *Wall signs* are permitted, provided they do not total an area more than 10 percent of the *building facade* on which they are located;

B. Freestanding Signs.

1. One *freestanding sign* not exceeding 50 square feet is permitted for each *street frontage* of the *lot*, provided corner *lots* with a *street frontage* of less than 100 feet on each *street* shall be permitted only one *freestanding sign*;

2. Multiple tenant *developments* that have more than 300 feet of *street frontage* on one *street* may have one additional *freestanding sign* for each 300 feet of *street frontage*, or portion thereof. Such *signs* shall be separated from one another by a minimum of 150 feet, if located on the same *street frontage*;

3. On *lots* where more than one *freestanding sign* is permitted, the *sign* area permitted for individual *freestanding signs* may be combined; provided the combined *sign* does not exceed 150 square feet; and

4. The maximum height for *freestanding signs* shall be 15 feet. [Ord. 98-0026 §§ 1, 2 (KCC 21A.20.095).]

18.42.120**Community business zone signs.**

Signs in the CB zones shall be limited as follows:

A. *Wall signs* are permitted, provided they do not total an area more than 15 percent of the *building facade* on which they are located;

B. Freestanding Signs.

1. One *freestanding sign* not exceeding 85 square feet, plus an additional 20 square feet for each additional business in a multiple tenant *structure* but not to exceed 145 square feet total, is permitted for each *street frontage* of the *lot*, provided corner *lots* with a *street frontage* of less than 100 feet on each *street* shall be permitted only one *freestanding sign*;

2. Multiple tenant *developments* that have more than 300 feet of *street frontage* on one *street* may have one additional *freestanding sign* for each 300 feet of *street frontage*, or portion thereof. Such *signs* shall be separated from one another by a minimum of 150 feet, if located on the same *street frontage*;

3. On *lots* where more than one *freestanding sign* is permitted, the *sign* area permitted for individual *freestanding signs* may be combined, provided the combined *sign* area does not exceed 250 square feet; and

4. The maximum height for *freestanding signs* shall be 20 feet. [Ord. 07-0267 § 22; Ord. 98-0026 §§ 1, 2 (KCC 21A.20.100).]

18.42.130

Regional business zone signs.

Signs in the RB zone shall be limited as follows:

A. *Wall signs* are permitted, provided they do not total an area more than 15 percent of the *building facade* on which they are located;

B. *Freestanding Signs*.

1. One *freestanding sign* not exceeding 170 square feet is permitted for each *street frontage* of the *lot*, provided corner *lots* with a *street frontage* of less than 100 feet on each *street* shall be permitted only one *freestanding sign*;

2. Multiple tenant *developments* that have more than 300 feet of *street frontage* on one *street* may have one additional *freestanding sign* for each 300 feet of *street frontage*, or portion thereof. Such *signs* shall be separated from one another by a minimum of 150 feet, if located on the same *street frontage* not exceeding 150 square feet;

3. On *lots* where more than one *freestanding sign* is permitted, the *sign* area permitted for individual *freestanding signs* may be combined; provided the combined *sign* area does not exceed 300 square feet; and

4. The maximum height for a *freestanding sign* shall be 25 feet. [Ord. 98-0026 §§ 1, 2 (KCC 21A.20.110).]

18.42.135

Signs in the public/semi-public, parks and golf course zones.

Signs in the public/semi-public, parks or golf course zone shall meet the standards of the nearest adjoining zone to which the *sign* faces.

18.42.140

Signs or displays of limited duration.

The following temporary *signs* or displays are permitted and except as required by the Uniform Building Code, or as otherwise required by this chapter, do not require building permits:

A. Grand Opening Displays.

1. *Signs*, posters, pennants, banners, strings of lights, blinking lights, balloons and searchlights are permitted for a period of up to one month to announce the opening of a new enterprise, the opening of an enterprise under new management, or the re-opening of an enterprise following a substantial building remodel; and

2. All grand opening displays shall be removed upon the expiration of 30 consecutive days;

B. Construction *Signs*.

1. Construction *signs* identifying architects, engineers, planners, contractors or other individuals or firms involved with the construction of a *building* and announcing the character of the *building* or the purpose for which the *building* is intended may be displayed;

2. One nonilluminated, double-faced *sign* is permitted for each public *street* upon which the project fronts;

3. No *sign* shall exceed 32 square feet in surface area or 10 feet in height, or be located closer than 30 feet from the property line of the adjoining property; and

4. Construction *signs* must be removed by the date of first occupancy of the premises or one year after placement of the *sign*, whichever occurs first;

C. Political *Signs*.

1. *Signs*, posters or bills promoting or publicizing candidates for public office or issues that are to be voted upon in a general or special election may be displayed on *private* property with the consent of the property owner. Any such *sign*, poster or bill shall be removed within 10 days following the election; and

2. No *sign*, poster, bill or other advertising device shall be located on public property or within public easements or *street* right-of-way;

D. Real Estate *Signs*. All temporary real estate *signs* may be single or double-faced *signs*:

1. *Signs* advertising an individual residential unit for sale or rent shall be limited to one *sign* per *street frontage*. The *sign* may not exceed eight square feet in area, and shall not exceed six feet in height. The *sign* shall be removed within five days after closing of the sale, lease or rental of the property.

2. Real estate open house A-frame/sandwich board residential *directional signs* announcing directions to an open house at a specified residence which is offered for sale or rent shall not exceed six square feet in area for each *sign*, and shall not exceed 42 inches in height. Such *signs* shall be permitted only when the agent or seller is in attendance at the property for sale or rent and may be located on the right-of-way outside of vehicular and bicycle lanes.

3. On-site commercial or industrial property for sale or rent *signs* shall be limited to one *sign* per *street frontage*, and shall not exceed 32 square feet in area. The *sign* shall not exceed 12 feet in height. The *sign* shall be removed within 30 days after closing of the sale, lease or rental of the property.

4. On-site residential *development* for sale or rent *signs* shall be limited to one *sign* per *development*. The *sign* shall not exceed 32 square feet in area, and shall not exceed 12 feet in height. The *sign* shall be removed within 30 days after closing of the sale or rental of the last *lot* or *dwelling unit* in the *development* or within 3 years of installation, whichever occurs first.

5. Off-site *directional signs* for residential *developments* shall be limited to six *signs*. Each *sign* shall not exceed 16 square feet in area, and shall include only the name of and directions to the residential *development*. The *sign(s)* shall be placed a maximum of two *street* miles from the nearest residential *development* entrance. No two *signs* for one residential *development* shall be located closer than 500 feet from one another on the same *street*. The *sign(s)* shall be removed within 30 days after closing of the sale or rental of the last *lot* or *dwelling unit* in the *development* or within 3 years of installation, whichever occurs first.

6. Residential on-premises informational *signs* shall be limited to one *sign* per feature, including but not limited to *signs* for information centers, model homes, parking areas or announcing features such as *parks*, playgrounds, or *trails*. Each *sign* shall not exceed 16 square feet in area, and shall not exceed six feet in height;

E. Community Event *Signs*.

1. Community event *signs* shall be limited to announcing or promoting a nonprofit sponsored community fair, festival or event;

2. Community event *signs* may be displayed no more than the time period specified in the temporary use permit issued pursuant to Chapter 18.100 KMC; and

3. Community event *signs* shall be removed by the event sponsor within two weeks following the end of the community fair, festival or event. [Ord. 98-0026 §§ 1, 2 (KCC 21A.20.120).]

18.42.150

Billboards – Location and height standards.

A. All *billboard* alterations or relocations shall comply with the following location and design standards:

1. *Billboards* shall only be located on *sites* zoned CB or RB;

2. No more than five *billboard faces* shall be oriented toward and visible from the same direction of travel within one mile of the proposed relocation *site* as measured along the adjacent roadway;

3. *Billboards* shall be located at least 100 feet from any other *billboard*, provided side-by-side, v-type and back-to-back *billboard faces* shall be considered one *billboard* for purposes of this subsection only;

4. The zoning on the opposite side of the *street* from a proposed relocation *site* must also permit *billboards*;

5. Type II *billboards* shall be at least 100 feet from any residential zone. Type I *billboards* shall be at least 330 feet from any residential zone;

6. No *billboard* shall extend beyond the property line of the *billboard site*;

7. No *billboard* shall be located more than 100 feet from any adjacent arterial;

8. *Billboards* shall observe the same *street setback* as all *buildings* within 50 feet of the proposed *billboard* location;

9. Type I *billboard faces* shall only be located adjacent to arterials developed with at least two primary travel lanes in each direction. In all other locations, *billboards* shall be limited to Type II *billboard faces*; and

10. No single *billboard structure* shall support a total of more than two Type I *billboard faces* or the equivalent, and no single *billboard structure* shall orient more than one Type I *billboard face* or the equivalent in any single direction.

B. Height.

1. *Billboards* located in the CB or RB zone shall not exceed 15 feet above the average height of all *buildings* within 330 feet of the *billboard* or 35 feet, whichever is less.

18.42.160

Billboards – General requirements.

A. The total number of *billboard faces* within the *city* shall not exceed the total number of *billboard faces* existing on June 20, 1988, except as provided in KMC 18.42.180(E). In addition, the total number of existing *billboard faces* within each zone permitting *billboards* shall not be exceeded except as provided in KMC 18.42.170.

B. As soon as practical after incorporation, the *city* shall compile an inventory of existing *billboards* within the *city*. Until the inventory is completed, no *billboard* shall be erected, modified, or relocated, nor shall the *city* issue any permits. Following completion of the inventory, the *city* shall grant a *billboard* permit for each existing *billboard* reflecting the location, size, height, zoning, and the degree of conformity with the requirements of this chapter. Only inventoried *billboards* may be subsequently issued *billboard* alteration or relocation permits. *Billboard* owners can accelerate the inventory process by providing the necessary inventory information for their *billboards*. If owners have provided necessary inventory information for all *billboards* in their ownership, the *city* shall release *billboard* permits for that ownership, regardless of the degree of completion of the remainder of the inventory. [Ord. 98-0026 §§ 1, 2 (KCC 21A.20.140).]

18.42.170

Billboards – Special restrictions in the CB zone.

A. In the event that a *billboard* owner elects to relocate CB-zoned *billboards* outside of the CB zone, the CB zone designation shall be removed and that permit may not later be used to relocate a *billboard* in the CB zone.

B. *Billboards* may be relocated only within the zone district identified on the valid *billboard* permit, except the number of *billboards* permitted within non-CB zone district may increase only as a result of *billboard* relocation from within the CB zone district. [Ord. 98-0026 §§ 1, 2 (KCC 21A.20.150).]

18.42.180

Billboards – Alteration or relocation limitations.

A. Except as provided in subsection (D) of this section, *billboards* shall not be altered with regard to size, shape, orientation, height, or location without the prior issuance of a *billboard* alteration or relocation permit. All such permits shall require full compliance with the provisions of KMC 18.42.150 through 18.42.200.

B. There shall be no time limit on the eligibility to alter or relocate inventoried *billboards*; however, individual alteration and relocation permits shall expire if the approved modifications are not completed within one year of permit issuance. Any project not completed within this period shall be placed in a holding category until a new permit is issued by the *city*, and no further work on the subject *billboard* shall occur until a permit is issued.

C. Relocation of inventoried *billboards* shall also require the issuance of a demolition permit for the removal of the existing *billboard*. *Billboard* demolitions shall be completed within 90 days of permit issuance and prior to installation of the relocated *billboard*.

D. Ordinary and necessary repairs which do not change the size, shape, orientation, height, or location of an inventoried *billboard* shall not require alteration permits. *Billboard* copy replacement may occur at any time and is exempt from the requirement for alteration permits, provided:

1. New Type II *billboard faces* do not exceed the size of previously inventoried faces; or

2. New Type I *billboard faces* may only exceed the size of the previously inventoried face with temporary cut-out extensions if the *billboard* is otherwise conforming, and if the extensions do not exceed a total of 125 square feet. Any extension shall be removed with the next change of *billboard* copy.

E. Single Type I *billboard faces* may be replaced with two side-by-side Type II *billboard faces*, and likewise two side-by-side Type II *billboard faces* may be replaced with a single Type I *billboard face*, provided each resulting *billboard face* complies with the location and height standards of KMC 18.42.150.

F. Any location or orientation alteration of *billboards* conforming to the provisions of KMC 18.42.150 through 18.42.200 shall be accompanied by the alteration or relocation of an equal number of *billboards* under the control of the same *applicant* which do not fully conform to these provisions, if any nonconforming *billboards* exist. Whenever more than one nonconforming *billboard* exists under a single ownership, they shall be made conforming in the following order:

1. *Billboards* deemed nonconforming pursuant to KMC 18.42.190;
2. *Billboards* located in zones which do not allow *billboards*;
3. *Billboards* located in *billboard* free areas;
4. *Billboards* located in the CB zone district; and
5. Any other nonconforming *billboard*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.20.160).]

18.42.190**Billboards – View and vegetative screening protections.**

A. Notwithstanding any other provision of KMC 18.42.150 through 18.42.200 or other applicable laws or regulations, no *billboard* shall be located or oriented in a manner that is within the direct line-of-sight of views of Mt. Rainier, Mt. Baker, the Olympic Mountains, or any lake or river from adjacent public roadways. All applications for *billboard* alteration or relocation shall be certified by the *applicant* as meeting this provision. Any *billboard* subsequently found to violate this provision shall be deemed nonconforming and shall be required to become the next nonconforming *billboard* relocated pursuant to KMC 18.42.180(F).

B. Notwithstanding any other provision of KMC 18.42.150 through 18.42.200 or other applicable law or regulation, no *billboard* owner or his agent shall remove, cut, or otherwise alter any vegetative screening on public property or *private landscaping* required by code as a condition of permit approval in order to improve the visibility of a nearby *billboard*. Should such an alteration occur, any *billboard* so benefited shall be deemed nonconforming and shall be required to become the next nonconforming *billboard* relocated pursuant to KMC 18.42.180(F). [Ord. 98-0026 §§ 1, 2 (KCC 21A.20.170).]

18.42.200**Billboard free areas.**

A. Notwithstanding any other provision of KMC 18.42.150 through 18.42.200, no *billboard* shall be relocated in any of the following areas:

1. Sites listed in either the Washington State or National Register of Historic Places or on sites designated as *city* landmarks or community landmarks;
2. *Open space* and scenic resource sites identified in a *city open space* plan;
3. Between any sites identified in subsection (A)(1) or (A)(2) of this section and the nearest adjacent public roadways;
4. Within 660 feet of any state or *city park*;
5. The south and east side of State Highway 522 from Northeast 149th Street to 68th Avenue Northeast;
6. Northeast 175th Street from 61st Avenue Northeast to 68th Avenue Northeast.

B. After *city* incorporation, any *billboard* located in a designated *billboard* free area shall be deemed nonconforming and shall be relocated pursuant to KMC 18.42.180(F). [Ord. 98-0026 §§ 1, 2 (KCC 21A.20.180).]

Chapter 18.45**DEVELOPMENT STANDARDS – ADEQUACY OF PUBLIC FACILITIES AND SERVICES**

Sections:

- 18.45.010 Purpose.
- 18.45.020 General requirements.
- 18.45.030 Adequate sewage disposal.
- 18.45.040 Adequate water supply.
- 18.45.050 Surface water management.
- 18.45.060 Adequate streets.
- 18.45.070 Adequate vehicular access.
- 18.45.080 Adequate fire protection.
- 18.45.090 School concurrency – Applicability and relationship to fees.
- 18.45.100 Findings, recommendations, and decisions regarding school capacities.
- 18.45.120 School concurrency standard.

18.45.130 Credit for improvements.

18.45.010

Purpose.

The purpose of this chapter is to ensure that public facilities and services necessary to support *development* are adequate or will be provided in a timely manner consistent with the public facilities and services planning goal of the Washington State Growth Management Act of 1990 by:

- A. Specifying the on-site and off-site facilities and services that must be in place or otherwise assured of timely provision prior to *development*;
- B. Allocating the cost of those facilities and services fairly; and
- C. Providing a general framework for relating development standards and other requirements of this code to:
 - 1. Adopted service level standards for public facilities and services;
 - 2. Procedural requirements for phasing development projects to ensure that services are provided as *development* occurs; and
 - 3. The review of *development permit* applications. [Ord. 98-0026 §§ 1, 2 (KCC 21A.28.010).]

18.45.020

General requirements.

A. All new *development proposals* including any *use*, activity or *structure* that requires *city* approval shall be adequately served by the following facilities and services prior to the time of occupancy, recording or other land use approval, as further specified in this chapter:

- 1. Sewage disposal;
- 2. Water supply;
- 3. Surface water management;
- 4. *Streets* and access;
- 5. Fire protection service; and
- 6. Schools.

B. Applications for all new *development proposals* requiring water or sewer service shall include a certificate of water availability and a certificate of sewer availability from the *department* to demonstrate compliance with this chapter and other provisions of this code, the comprehensive plan and the Growth Management Act.

C. Regardless of the number of sequential permits required, the provisions of this chapter shall be applied only once to any single *development proposal*. If changes and modifications result in impacts not considered when the proposal was first approved, the *city* shall consider the revised proposal as a new *development proposal*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.28.020).]

18.45.030

Adequate sewage disposal.

All new *development* shall be served by an adequate public or *private* sewage disposal system, including both collection and treatment facilities as follows:

- A. A public sewage disposal system is adequate for a *development proposal* provided that:
 - 1. For the issuance of a building permit, preliminary plat or short plat approval or other land use approval, the *site* of the proposed *development* is or can be served by an existing disposal system consistent with KMC Title 13, and the disposal system has been approved by the *department* as being consistent with applicable state and local design and operating guidelines;
 - 2. For the issuance of a certificate of occupancy for a building or change of use permit, the approved public sewage disposal system as set forth in subsection (A)(1) of this section is installed to serve each *building* or *lot*;
 - 3. For a zone *reclassification*, the timing of installation of required sewerage improvements shall be contained in the approving ordinance; and
- B. A *private* individual sewage system is adequate, if an on-site sewage disposal system for each individual *building* or *lot* is installed to meet the requirements and standards of Seattle/King County public health as to lot size, soils and system design prior to issuance of a certificate of occupancy for a building or change of use permit. [Ord. 98-0026 §§ 1, 2 (KCC 21A.28.030).]

18.45.040**Adequate water supply.**

All new *development* shall be served by an adequate public or *private* water supply system as follows:

A. A public water system is adequate for a *development proposal* provided that:

1. For the issuance of a building permit, preliminary plat or short plat approval or other land use approval, the *applicant* must demonstrate that the existing water supply system available to serve the *site*:

a. Complies with the applicable planning, operating and design requirements of Chapter 246-290 WAC; Chapter 12.50 and 12.55 KMC and KMC Title 15; coordinated water system plans; KMC Titles 8, 9, 13 and other applicable provisions of the rules and regulations of Seattle/King County public health; and any limitation or condition imposed by the *city*-approved comprehensive plan of the water purveyor; and

b. The proposed improvements to an existing water system have been reviewed by the *department* and determined to comply with the design standards and conditions specified in subsection (A)(1)(a) of this section; or

c. A proposed new water supply system has been reviewed by the *department* and determined to comply with the design standards and conditions specified in subsection (A)(1)(a) of this section;

2. Prior to issuance of a certificate of occupancy for a building or change of use permit, the approved public water system and any system improvements set forth in subsection (A)(1) of this section shall be installed to serve each *building* or *lot* respectively;

3. For a *zone reclassification*, the timing of installation of required water system improvements shall be included in the approving ordinance.

B. An on-site, individual water system is adequate and the plat or short plat may receive preliminary and final approval, and a building or change of use permit may be issued if:

1. The *buildings* or *lots* to be served are located outside of a *city*-approved water purveyor service area; or

2. The water purveyor has indicated that service cannot be provided in compliance with the purveyor's approved comprehensive plan; and

3. Seattle/King County public health has approved the proposed method of water supply in accordance with the applicable health rules and regulations and this section. The *applicant* shall provide appropriate information to demonstrate to the *department* and Seattle/King County public health that a *private* individual water system will be adequate. Seattle/King County public health may require installation of *private* individual water systems prior to final approval of a plat or short plat where information is insufficient to show an adequate water supply can be made available. [Ord. 98-0026 §§ 1, 2 (KCC 21A.28.040).]

18.45.050**Surface water management.**

All new *development* shall be served by an adequate surface water management system as follows:

A. The proposed system is adequate if the *development proposal site* is served by a surface water management system approved by the *department* as being consistent with the design, operating and procedural requirements of the Surface Water Design Manual and KMC Title 13;

B. For a subdivision, short subdivision, *zone reclassification*, site plan review or master plan, the phased installation of required surface water management improvements shall be stated in the conditions of project approval. Such phasing may require that a bond or similar security be deposited with the *city*; and

C. An adjustment from the requirements of the Surface Water Design Manual and KMC Title 13 shall be reviewed as set forth in KMC 13.35.050 and does not require a *variance* from this title unless relief is requested from a building height, *setback*, *landscaping* or other development standard set forth in this title. [Ord. 98-0026 §§ 1, 2 (KCC 21A.28.050).]

18.45.060**Adequate streets.**

A. All new *development* shall be served by adequate *streets*. *Streets* are adequate if the *development's* traffic impacts on surrounding public *streets* are acceptable under the level-of-service standards and the compliance procedures established in KMC Title 12.

B. As a result of the impact created by a proposed *development*, dedication or deeding to the *city* of right-of-way or a portion thereof for public *streets* in accordance with *city street* standards shall be required within or along the boundaries of the *site*:

1. Where the six-year capital improvement plan indicates the necessity of a new right-of-way or portion thereof for *street* purposes;
2. Where necessary to extend or to complete the existing or future neighborhood *street* pattern as shown on the *city* street map (see KMC Title 12);
3. Where necessary to provide additions of right-of-way to existing *city* right-of-way;
4. Where necessary to conform to *city street* standards or *city street* improvement projects; or
5. Where necessary to provide a public transportation system that supports future development of abutting property consistent with the Kenmore comprehensive plan.

C. A *variance* request from the *street* cross-section or construction standards established by KMC Title 12, Streets and Bridges, shall be reviewed as set forth in KMC 12.50.060 and does not require a *variance* from this title unless relief is requested from a building height, *setback*, *landscaping* or other development standard set forth in this title. [Ord. 98-0026 §§ 1, 2 (KCC 21A.28.060).]

18.45.070

Adequate vehicular access.

All new *development* shall be served by adequate vehicular access as follows:

- A. The property upon which the *development proposal* is to be located has direct access to:
 1. A public or *private street* that meets *city street* standards or is formally declared acceptable by the *city manager*; or
 2. The property has access to such a *street* over a *private* driveway approved by the *city*;
- B. Every *lot* upon which one or more *buildings* is proposed to be erected or traffic generating *use* is proposed to be established, shall establish safe access as follows:
 1. Safe passage from the *street* right-of-way to building entrances for transit patrons and other pedestrians, in accordance with the design standards set forth in Chapter 18.40 KMC;
 2. Direct access from the *street* right-of-way, fire lane or a *parking space* to any part of the property as needed to provide public services in accordance with adopted standards (e.g., fire protection, emergency medical service, mail delivery or trash collection); and
 3. Direct access from the *street* right-of-way, driveway, *alley* or other means of ingress/egress approved by the *city*, to all required off-street *parking spaces* on the premises. [Ord. 98-0026 §§ 1, 2 (KCC 21A.28.120).]

18.45.080

Adequate fire protection.

All new *development* shall be served by adequate fire protection as set forth below:

- A. The *site* of the *development proposal* shall be served by a water supply system that provides at least minimum fire flow and a *street* system or fire lane system that provides life safety/rescue access, and other fire protection requirements for *buildings* as required by KMC Title 15;
- B. For a zone *reclassification*, the timing of installation of required fire protection improvements shall be stated in the approving ordinance, secured with a bond or similar security, and deposited with the *city*; and
- C. A *variance* request from the requirements established by KMC Title 15 shall be reviewed as set forth in KMC 15.15.090 and/or in Article 2 of the currently adopted edition of the Fire Code and does not require a *variance* from this title unless relief is requested from a building height, *setback*, *landscaping* or other development standard set forth in this title. [Ord. 98-0026 §§ 1, 2 (KCC 21A.28.130).]

18.45.090

School concurrency – Applicability and relationship to fees.

- A. The school concurrency standard set out in KMC 18.45.120 shall apply to applications for preliminary plat, short plats of more than four lots, *mobile home parks*, requests for multifamily zoning, and land use and building permits for multifamily housing projects which have not been previously evaluated for compliance with the concurrency standard.
- B. The *city's* finding of concurrency shall be made at the time of preliminary plat, short plat or other land use permit approval, at the time that a request to actualize potential multifamily zoning is approved, at the time a *mobile home park* site plan is approved, or prior to building permit issuance for multifamily housing projects which have not been previously established for compliance with the concurrency standard. Once such a finding has been made, the *development* shall be considered as vested for purposes of the concurrency determination.

- C. Excluded from the application of the concurrency standard are:
1. Building permits for individual single-family dwellings;
 2. Any form of housing exclusively for *senior citizens*, including nursing homes and retirement centers;
 3. *Shelters for temporary placement, relocation facilities and transitional housing facilities*;
 4. Replacement, reconstruction or remodeling of existing *dwelling units*;
 5. Short subdivisions of four or less lots; and
 6. Any residential building permit for any *development proposal* for which a concurrency determination has already been made pursuant to the terms of this title.
- D. All of the *development* activities which are excluded from the application of the concurrency standard are subject to school impact fees imposed pursuant to KMC Title 20.
- E. The assessment and payment of impact fees are governed by and shall be subject to the provisions in KMC Title 20 addressing school impact fees.
- F. A certification of concurrency for a school district shall not preclude the city from collecting impact fees for the district.

18.45.100**Findings, recommendations, and decisions regarding school capacities.**

A. The *city manager* and/or the *hearing examiner*, in the course of reviewing proposals for residential *development* including applications for plats, short plats, or land use approvals for multifamily housing projects, *mobile home parks*, or multifamily zoning, and multifamily building permits, shall consider the *school district's capital facilities plan*.

B. The *school district* is authorized to present testimony and documents demonstrating a lack of concurrency in the district and the inability of the district to accommodate the students to be generated by a specific *development*.

C. Based upon a finding that the impacts generated by the plat, short plat, *mobile home park* or the multifamily *development* were generally not anticipated at the time of the last approval of a *school district capital facilities plan* and were not included in the district's long-range forecast, the *city manager* may require or recommend phasing or provision of the needed facilities and/or sites as appropriate to address the deficiency or deny or condition approval, consistent with the provisions of this chapter, the State Subdivision Act, and the State Environmental Policy Act.

D. Determinations of the *hearing examiner* or *city manager* regarding concurrency can be appealed only pursuant to the provisions for appeal of the *development permit* process for which the determination has been made. Where no other administrative appeal process is available, an appeal may be taken to the *hearing examiner* using the appeal procedures for *variances*. Any errors in the formula identified as a result of an appeal should be referred to the council for possible modifications.

E. Where the council has not adopted an impact fee ordinance for a particular *school district*, the language of this section shall not affect the authority or duties of the *hearing examiner* or the *city manager* pursuant to the State Environmental Policy Act or the State Subdivision Act. [Ord. 98-0026 §§ 1, 2 (KCC 21A.28.150).]

18. 45.120**School concurrency standard.**

A. Schools shall be considered to have been provided concurrently with the *development* which will impact the schools if:

1. The permanent and interim improvements necessary to serve the *development* are planned to be in place at the time the impacts of *development* are expected to occur; or

2. The necessary financial commitments are in place to assure the completion of the needed improvements to meet the *school district's* standard of service within three years of the time that the impacts of *development* are expected to occur. Necessary improvements are those facilities identified by the *school district* in its capital facilities plan.

B. Any combination of the following shall constitute the "necessary financial commitments" for the purposes of subsection (A) of this section:

1. The district has received voter approval of and/or has bonding authority;
2. The district has received approval for federal, state, or other funds;
3. The district has received a secured commitment from a developer that the developer will construct the needed *permanent school facility*, and the *school district* has found such facility to be acceptable and consistent with its capital facilities plan; and/or

4. The district has other assured funding, including but not limited to school impact fees which have been paid.

C. Compliance with this concurrency requirement of this section shall be sufficient to satisfy the provisions of RCW 58.17.060 and 58.17.110. [Ord. 98-0026 §§ 1, 2 (KCC 21A.28.160).]

18.45.130

Credit for improvements.

Whenever a *development* is granted approval subject to a condition that the development proponent actually provide a *permanent school facility* acceptable to the district, the development proponent shall be entitled to a credit for the actual cost of providing the facility, against the fee that would be chargeable under the formula provided by KMC Title 20. The cost of construction shall be estimated at the time of approval, but must be documented and the documentation confirmed after the construction is completed to assure that an accurate credit amount is provided. If construction costs are less than the calculated fee amount, the difference remaining shall be chargeable as a school impact fee. [Ord. 98-0026 §§ 1, 2 (KCC 21A.28.180).]

Chapter 18.47

PROPERTY-SPECIFIC DEVELOPMENT STANDARDS/SPECIAL DISTRICT OVERLAYS

Sections:

- 18.47.010 Purpose.
- 18.47.030 Property-specific (P-Suffix) development standards.
- 18.47.040 Special district overlays (SO) development standards.

18.47.010

Purpose.

The purposes of this chapter are to provide for alternative development standards to address unique *site* characteristics and to address development opportunities which can exceed the quality of standard *developments*, by:

- A. Identifying property-specific development standards for increasing minimum requirements of this title on individual *sites*; or
- B. Identifying special district overlays with alternative standards for special areas designated by the comprehensive plan. [Ord. 98-0026 §§ 1, 2 (KCC 21A.38.010).]

18.47.030

Property-specific (P-suffix) development standards.

A. Adopted property-specific development standards are maintained by the *department* in the property specific development standards notebook. The property-specific development standards apply to any *development proposal* on the subject properties. The following P-suffix development standards are in effect: NS-P1, NS-P4, NS-P10, NS-P13, and NS-P19.

B. Property-specific development standards address problems unique to individual properties or a limited number of neighboring properties that are not addressed or anticipated by general minimum requirements of this title or other regulations.

C. Property-specific development standards include street addresses, tax lot numbers or other clear means of identifying the properties subject to the additional standards.

18.47.040

Special district overlays (SO) development standards.

Special district overlays include policies that prescribe the purposes and location of the overlay.

A. Adopted special district overlays are maintained by the *department* in the property-specific development standards notebook. The special district overlay development standards apply to any *development proposal* on the subject properties. The following SO development standards are in effect: SO-050.

B. Unless they are specifically modified by the provisions of this chapter, the standard requirements of this title and other *city* ordinances and regulations govern all *development* and *land uses* within special district overlays; and

C. A special district overlay on an individual *site* may be modified by property-specific development standards as provided in KMC 18.47.030. [Ord. 98-0026 §§ 1, 2 (KCC 21A.38.040).]

Chapter 18.50

DEVELOPMENT STANDARDS – DESIGN REQUIREMENTS FOR SPECIFIC USES

Sections:

- 18.50.010 Purpose.
- 18.50.050 Townhouse development.
- 18.50.060 Attached dwellings and group residences – Applicability.
- 18.50.070 Attached dwellings and group residences – Vehicular access and parking location.
- 18.50.080 Attached dwellings and group residences – Building facade modulation.
- 18.50.090 Mixed use development – Percentages of residential uses.
- 18.50.100 Mixed use development – Residential density.
- 18.50.110 Mixed use development – Building floor area.
- 18.50.120 Mixed use development – Design features.
- 18.50.140 Mobile home parks – Standards for existing parks.
- 18.50.150 Mobile home parks – Standards for new parks.
- 18.50.160 Mobile home parks – Alternative design standards.
- 18.50.180 Re-use of facilities - Purpose
- 18.50.200 Re-use of facilities – General standards.
- 18.50.210 Re-use of facilities – Re-establishment of closed public school facilities.
- 18.50.220 Re-use of facilities – Standards for conversion of historic *buildings*.
- 18.50.230 Hazardous liquid and gas transmission pipelines.

18.50.010

Purpose.

The purpose of this chapter is to improve the quality of *development* by providing *building* and site design standards for specific *uses* that:

- A. Reduce the visual impact of large residential *buildings* from adjacent *streets* and properties;
- B. Enhance the aesthetic character of large residential *buildings*;
- C. Contain sufficient flexibility of standards to encourage creative and innovative *site* and *building* design;
- D. Enhance aesthetics and environmental protection through site design; and
- E. Allow for continued or adaptive re-use of *historic resources* while preserving their historic and architectural integrity. [Ord. 98-0026 §§ 1, 2 (KCC 21A.14.010).]

18.50.050

Townhouse development.

In the R-1 through R-6 zones and in the NB zone, a *building* that contains a grouping of attached *townhouse* units shall not exceed a 200-foot maximum length without a separation of at least 10 feet from other groupings or rows of *townhouses*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.14.060).]

18.50.060

Attached dwellings and group residences – Applicability.

The standards of KMC 18.50.070 and 18.50.080 shall apply to all new *apartment developments* exceeding four *dwelling units*, new *townhouse development* and new group residences except Class I *community residential facilities (CRF-I)*. Expansions of existing *development* that involve four or more *dwelling units* shall be subject to compliance with KMC 18.50.070 and 18.50.080. [Ord. 98-0026 §§ 1, 2 (KCC 21A.14.070).]

18.50.070**Attached dwellings and group residences – Vehicular access and parking location.**

Except for *development* located in the downtown commercial or downtown residential zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4 and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE, which must comply with Chapter 18.52 KMC, Downtown Design Standards, the following requirements apply:

A. On sites abutting an *alley* constructed to a width of at least 20 feet, *apartment* and *townhouse development* and all group residences except Class I *community residential facilities (CRF-I)* shall have parking areas placed to the rear of *buildings* with primary vehicular access via the *alley*, except when waived by the *city manager* due to physical *site* limitations.

B. When *alley* access is provided, no additional driveway access from the public *street* shall be allowed except as necessary to access parking under the *structure* or for fire protection.

C. When the number of uncovered common *parking spaces* for attached dwellings and group residences exceeds 30 spaces and when there is *alley* access, no more than 50 percent of these uncovered *parking spaces* shall be permitted between the *street* property line and any *building*, except when authorized by the *city manager* due to physical *site* limitations. [Ord. 03-0175 § 21; Ord. 98-0026 §§ 1, 2 (KCC 21A.14.080).]

18.50.080**Attached dwellings and group residences – Building facade modulation.**

Except for *development* located in the downtown commercial or downtown residential zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4 and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE, which must comply with Chapter 18.52 KMC, Downtown Design Standards, *apartment* and *townhouse developments* and all group residences shall provide *building facade modulation* on facades exceeding 60 feet and facing abutting *streets* or properties zoned R-1 through R-6. The following standards shall apply:

A. The maximum wall length without *modulation* shall be 30 feet; and

B. The sum of the modulation depth and the modulation width shall be no less than eight feet. Neither the modulation depth nor the modulation width shall be less than two feet;

C. Any other technique approved by the *city manager* that achieves the intent of this section. [Ord. 03-0175 § 22; Ord. 98-0026 §§ 1, 2 (KCC 21A.14.090).]

18.50.090**Mixed use development – Percentages of residential uses.**

Residential *uses* in *mixed use developments* shall be subject to the following limits:

A. A maximum of 50 percent of the total built floor area when located in NB zones; and

B. A maximum of 75 percent of the total built floor area when located in CB, RB and DC zones; provided, that the total percentage may be increased by an additional 10 percent with the approval of the *city manager*. [Ord. 03-0175 § 23; Ord. 98-0026 §§ 1, 2 (KCC 21A.14.110).]

18.50.100**Mixed use development – Residential density.**

Base residential density for *mixed use developments* shall be determined using total *site area* according to KMC 18.30.020. [Ord. 98-0026 §§ 1, 2 (KCC 21A.14.120).]

18.50.110**Mixed use development – Building floor area.**

A. For *mixed use developments* that utilize at least 50 percent of building square footage for residential *uses* in RB zones, the building *floor area ratio* shall be as follows: 4.0/1;

B. Building *floor area ratios* of subsection (A) of this section may be increased when all required parking is contained within a common parking structure, as follows: 5.0/1 in RB zone. [Ord. 03-0175 § 24; Ord. 98-0026 §§ 1, 2 (KCC 21A.14.130).]

18.50.120**Mixed use development – Design features.**

Mixed use development shall provide off-street parking behind or to the side of *buildings*, or enclosed within *buildings* consistent with KMC 18.40.030 and any applicable design standards for the district. Relief from this requirement may be granted by the *city manager* only if the *applicant* can demonstrate that there is no practical site design to meet this requirement, or subject to exceptions for properties subject to Chapter 18.52 KMC, Downtown Design Standards. A 25 percent reduction of required parking is allowed if a *mixed use development* meets the criteria of KMC 18.40.040 for shared parking. [Ord. 03-0175 § 25; Ord. 98-0026 §§ 1, 2 (KCC 21A.14.135).]

18.50.140**Mobile home parks – Standards for existing parks.**

A. *Mobile home parks* established prior to the effective date of this code shall continue to be governed by all standards relating to density, *setbacks*, *landscaping* and off-street parking in effect at the time they were approved.

B. Placement of new accessory *structures* and replacement *mobile homes* in these *mobile home parks* shall be governed by the dimensional standards in effect when the parks were approved, unless two or more replacement *mobile homes* are proposed to be installed adjacent to each other under the flexible *setback* option set forth in KMC 18.50.160. Where internal *setbacks* are not specified, the average of the prevailing *setbacks* on the pads to either side of the proposed new or replacement *structure* shall apply.

C. No spaces or pads in an existing *mobile home park* shall be used to accommodate *recreational vehicles (RVs)*, except when the spaces or pads were specifically for RVs at the time the park was established.

D. An existing *mobile home park* may be enlarged, provided the proposed enlargement meets the standards set forth in KMC 18.50.150 and 18.50.160.

E. Both insignia and noninsignia *mobile homes* may be installed in established parks; provided, that all *mobile homes* supported by piers shall be fully skirted, and that nonstandard *mobile homes* shall meet the minimum livability and safety requirements set forth in KMC Title 15. [Ord. 98-0026 §§ 1, 2 (KCC 21A.14.150).]

18.50.150**Mobile home parks – Standards for new parks.**

New *mobile home parks* shall be developed subject to the following standards:

A. A *mobile home park* shall be at least three acres in area;

B. Residential densities in a *mobile home park* shall be as follows:

1. Six dwellings per acre in R-4 zone;

2. The base density of the zone in which the park is located in all R-6 through R-48 zones; and

3. *Mobile home parks* shall be eligible to achieve the maximum density permitted in the zone by providing the affordable housing benefit for *mobile home parks* set forth in Chapter 18.80 KMC;

C. Both insignia and noninsignia *mobile homes* may be installed in *mobile home parks*; provided, that noninsignia *mobile homes* shall meet the minimum livability and safety requirements set forth in KMC Title 15;

D. A *mobile home park* shall be exempt from *impervious surface* limits set forth in the zoning standards;

E. At least one of the off-street *parking spaces* required for each *mobile home* shall be located on or adjacent to each *mobile home pad*;

F. Internal roads and sidewalks shall provide access to each *mobile home space* and shall be constructed in accordance with the *city street* standards for residential minor access *streets*;

G. There shall be a minimum of 10 feet of separation maintained between all *mobile homes* on the *site*, unless the flexible *setback* option set forth in KMC 18.50.160 is used. Accessory *structures* shall be located no closer than:

1. Ten feet to *mobile homes* on adjacent spaces, unless constructed of noncombustible materials, in which case the minimum *setback* shall be five feet;

2. Five feet to accessory *structures* of *mobile homes* on adjacent spaces; and

3. Five feet to the *mobile home* or other accessory *structures* on the same space, except a carport or garage may be attached to the *mobile home*, and the separation may be waived when such *structures* are constructed of noncombustible materials;

H. All *mobile homes* and RVs supported by piers shall be fully skirted; and

I. A *mobile home park* may include a storage area for RVs owned by residents of the park, provided the storage area contains no utility hookups and no RV within the storage area shall be used as living quarters. [Ord. 98-0026 §§ 1, 2 (KCC 21A.14.160).]

18.50.160

Mobile home parks – Alternative design standards.

As an alternative to the *building* separation and internal *street* standards of KMC 18.50.150:

A. *Building* separation requirements or *setbacks* between *mobile homes* and accessory *structures* on adjacent spaces may be modified, provided:

1. The common walls meet the fire protection standards set forth in the Uniform Building Code and the standards set forth in the Uniform Fire Code for duplexes, multifamily and condominium *developments*, as applicable; and

2. Rental agreement clauses, by-laws or other legal mechanisms stipulate maintenance responsibilities for *structures*, *fences* and yards;

B. *Private streets* may be used with a minimum driving surface of 22 feet in width, provided:

1. The *streets* comply in all other respects with the *street* standards;

2. All required parking is located off-street and as specified in KMC 18.50.150(E); and

3. Such *streets* shall not:

a. Directly connect two or more points of vehicular access to the park; or

b. Serve over 100 *dwelling units* within the park. [Ord. 98-0026 §§ 1, 2 (KCC 21A.14.170).]

18.50.180

Re-use of facilities - Purpose

The purposes of KMC 18.50.200 through 18.50.220 are to:

A. Encourage the adaptive re-use of existing public facilities which will continue to serve the community, and to ensure public review of redevelopment plans by allowing:

1. Temporary re-use of closed public school facilities retained in *school district* ownership, and the reconversion of a temporary re-use back to a school use;

2. Permanent re-use of surplus nonresidential facilities (e.g., schools, fire stations, government facilities) not retained in *school district* or *public agency* ownership; or

3. Permanent re-use of historic *structures* listed on the National Register or designated as *city* landmarks. [Ord. 03-0175 § 41; Ord. 98-0026 §§ 1, 2 (KCC 21A.32.010).]

18.50.200

Re-use of facilities – General standards.

The interim or permanent re-use of surplus nonresidential facilities in residential zoned areas shall require that no more than 50 percent of the original floor area be demolished for either permanent or interim re-use of facilities. [Ord. 98-0026 §§ 1, 2 (KCC 21A.32.200).]

18.50.210

Re-use of facilities – Re-establishment of closed public school facilities.

The re-establishment or reconversion of an interim nonschool use of school facilities back to school uses shall require a site plan and the issuance of a change of use permit pursuant to KMC Title 15. [Ord. 98-0026 §§ 1, 2 (KCC 21A.32.210).]

18.50.220

Re-use of facilities – Standards for conversion of historic buildings.

In order to insure that significant features of the property are protected pursuant to Chapter 2.20 KMC, the following standards shall apply to conversion of historic *buildings*:

A. Gross floor area of *building* additions or new *buildings* required for the conversion shall not exceed 20 percent of the gross floor area of the historic *building*, unless allowed by the zone;

B. Conversions to *apartments* shall not exceed one *dwelling unit* for each 3,600 square feet of lot area, unless allowed by the zone; and

C. Any construction required for the conversion shall require certification of appropriateness from the *city* landmark commission. [Ord. 98-0026 §§ 1, 2 (KCC 21A.32.220).]

18.50.230

Hazardous liquid and gas transmission pipelines.

A. Tracts and easements containing *hazardous liquid and gas transmission pipelines* and required *setbacks* from such pipelines may include the following *uses*, subject to other regulations applicable to each *use* and approval of the holder of the easement: utility *structures* not normally occupied necessary for the operation of the pipeline, landscaping, *trails, open space*, keeping of animals, agriculture, forestry, commercial signage, *minor communication facilities* and the utility *structures* not normally occupied necessary for the operation of the *minor communication facility*, and other compatible *uses* as specified on the face of the recorded plat or short plat; provided, that *structures* designed for human occupancy shall never be allowed within pipeline tracts, easements or *setbacks*.

B. *Hazardous liquid and gas transmission pipelines* shall not be located in aquifer recharge areas, *landslide hazard areas* or *erosion hazard areas*. When it is impractical to avoid such areas, special engineering precautions should be taken to protect public health, safety and welfare. [Ord. 98-0026 §§ 1, 2 (KCC 21A.14.225).]

Chapter 18.52

DOWNTOWN DESIGN STANDARDS

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- 18.52.210 Corner features.
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- 18.52.260 Visible building entrances.
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Article I. Introduction and Applicability

18.52.010

Purpose and intent.

The Kenmore downtown design standards are intended to implement the *city's* comprehensive plan and vision for the creation of "...a community with an attractive, vital, pedestrian-oriented *city* center offering commercial, civic, cultural and *park* spaces, integrated with higher density housing..." and "...a community with clear design standards creating attractive, functional, and enduring *buildings* and places..."

The purpose of the downtown design standards is to create a pedestrian-oriented downtown by identifying appropriate *site* and development standards for new *development*.

The Kenmore design standards are structured in the following manner. [Ord. 03-0176 § 1.]

18.52.020

Pedestrian-oriented streets and uses.

The highest priority is to provide as much guidance to those elements that affect the development pattern and pedestrian orientation: *building* orientation and location on *site*, relationship to the *street*, and circulation. Standards relating to these topics are more specific and relate to:

- A. A sidewalk environment which is lively, attractive, comfortable, and safe;
- B. Rich visual detail in the built environment which tells the user how *buildings* and places are used;
- C. Visual predominance of *buildings*, walkways, and landscape, less prominent *signs*, and parking lots and *structures* which are generally concealed from view. [Ord. 03-0176 § 1.]

18.52.030

Scale of downtown development.

Standards relating to the character of *development* are structured to provide greater flexibility in *development* and *building* design. They provide a palette of options to consider during the design process and address:

- A. *Ground floors* of *buildings*;
- B. *Buildings* of several stories which create continuity along the streetscape and walkways;
- C. Detail in *building* mass and form which creates human scale with the parts of larger *buildings*. [Ord. 03-0176 § 1.]

18.52.040**Example images included in standards.***

The photographs in this document are included to visually depict the type of *site* or *building* design considerations that could meet the intent of the Kenmore design standards. The images are examples only and are not intended to be interpreted as the only design approach possible.

These photographs correspond to the intent of the visioning process and visual preference survey conducted during the comprehensive plan process and independent research efforts by the planning commission conducted in May 2002. [Ord. 03-0176 § 1.]

*Code reviser's note: Exhibit A to Ordinance 03-0176 contains the photographs for the Kenmore downtown design standards. A copy for public review and examination is on file and available in the office of the *city* clerk.

18.52.050**Recommended guiding principles – General.**

A. Plan for and implement an attractive, vital, pedestrian-oriented, transit friendly, *city* center offering commercial, civic, cultural and *park* spaces, integrated with higher density housing.

B. Address the different characteristics of downtown by encouraging regional serving *development* south of SR-522 and local serving *development* north of SR-522.

C. Support redevelopment in accordance with the vision for the downtown through investment in public infrastructure including transportation, utility, and civic infrastructure.

D. Give priority to creating indoor and outdoor *public spaces*, promote community activities meeting the needs of a range of ages and interests. Outdoor spaces should include plazas, *parks*, and public green spaces. Encourage the efficient use of space and shared uses where appropriate.

E. Give priority consideration to strong linkages between the four downtown quadrants and the surrounding neighborhoods. Pedestrian crossings, including a bridge(s), over SR-522, linking the north and south quadrants, should be readily accessible, functional, visually attractive, safe, and inviting links to key destinations, and should provide a Kenmore identity.

F. Create a downtown circulation system that promotes mobility for all modes of travel, emphasizing a loop road circulation system.

G. Create an interconnected system of *trails*, sidewalks, bikeways, and open spaces in downtown.

H. Promote the revitalization and expansion of business and retail compatible with the character of the downtown districts. Encourage businesses that draw patrons during both the day and evening. Provide an adequate mix of on-street, surface and structured parking, and encourage shared parking options.

I. Provide high density, high amenity (includes *public spaces* and *private* facilities) pedestrian-oriented residential neighborhoods meeting the housing needs of a variety of income levels, and developed at densities high enough to support transit and commercial *uses*. Off-street parking should be encouraged.

J. Coordinate public and *private* investment to achieve optimal leverage of public funds.

K. Create an identity for the downtown and SR-522 by giving priority consideration to improving the appearance of the physical environment through design guidelines, sidewalks, landscaping, *street trees*, public art and signage.

L. The downtown should acknowledge and create a beneficial and symbiotic relationship with SR-522.

M. Integrate and manage downtown *development* to support sound ecological principles by responding to natural landforms, providing stormwater management, improving water quality, and retaining and adding green spaces.

N. Identify downtown view corridors of significant off-site features (i.e., Lake Washington, Cascades, and surrounding hillsides), giving priority consideration to provision of public physical and visual access from the downtown quadrants to the waterfront. [Ord. 03-0176 § 1.]

18.52.060**Additional principles – Northwest Quadrant.**

A. Locate the Civic Center facility (including City Hall, a community center and library) in the Northwest Quadrant to provide the greatest stimulus to redevelopment. If there is a truly unique opportunity in another quadrant of the downtown that would meet the balance of the Civic Center criteria, it should not be ruled out.

B. Locate a multi-modal transportation facility in the Northwest Quadrant linked with other public facilities and spaces, functioning as a key node within a larger regional system.

C. Locate the Civic Center facility at a highly visible and/or accessible location, if possible taking advantage of view corridors to Lake Washington. The facility should provide long-term expansion potential and opportunities for *private* use of *public space*. Additional potential civic *uses* should be considered. The facility should be prominent, distinguishable and visually attractive.

D. A large, functional, open, outdoor space should be created to function as a focal point and “public square,” providing opportunities for public and *private* gatherings.

E. Give priority consideration to public purchase of parcels in the Northwest Quadrant where desired *private* investment is least likely to occur. Public investment may include purchase, long-term lease or other owner/tenant options. [Ord. 03-0176 § 1.]

18.52.070

Applicability.

A. Design standards shall apply as depicted in Figure 18.52.070.A.1.

B. The components of the design standards shall apply as follows: (X=design component required under the specified standard)

Design Standard	Standard 1	Standard 2	Standard 3
Article II. Site Design - Standards for All Uses			
18.52.100 <i>Pedestrian walkways</i>	X	X	X
18.52.110 Northwest Quadrant circulation plan	X ¹		
18.52.120 <i>Public spaces</i> and plazas	X		X
18.52.130 Furnishings	X		X
18.52.140 <i>Site lighting</i>	X	X	X
18.52.150 <i>Building location/setbacks</i> (for commercial/mixed use <i>buildings</i>)	X	X	X
18.52.160 Building <i>setbacks</i> (for residential/primarily residential <i>uses</i>)	X		X
18.52.170 Surface parking lot location	X	X	X
18.52.180 Parking lot screening	X	X	X
18.52.190 Location of driveways	X	X	X
18.52.200 Outdoor service and storage areas	X	X	X
Article III. <i>Building Design</i> – Standards for All Uses			
18.52.210 Corner features	X	X	X
18.52.220 Roof form	X	X	X
18.52.230 Structured parking	X	X	X
18.52.240 <i>Blank wall</i> and side wall screening	X	X ²	X
18.52.250 Pedestrian bridges	X	X	
Article IV. <i>Building Design</i> – Standards for Commercial/Mixed Use <i>Buildings</i>			
18.52.260 Visible building entrances	X	X	X
18.52.270 <i>Ground floor</i> facades	X		X
18.52.280 <i>Ground floor</i> transparency and visibility	X		X
18.52.290 <i>Weather protection</i>	X		
18.52.300 <i>Building materials</i>	X	X	X
18.52.310 Upper level setbacks, mass, and bulk	X	X	X
Article V. <i>Building Design</i> – Standards for Residential/Primary Residential <i>Uses</i>			
18.52.320 Primary residential entrances	X	X	X

18.52.330	<i>Building</i> mass and bulk	X	X	X
18.52.340	Materials	X	X	X
18.52.350	Windows	X	X	X

¹ Applicable to the portion of the downtown identified in the Northwest Quadrant Circulation Plan.

² Subsections B.1, B.3 and C of this section only.

C. In the event of conflict between the downtown design standards and any other applicable code, the *city manager* shall determine the appropriate application of the conflicting codes, recognizing the need to protect public health, safety, and welfare, any specific interpretation criteria, as well as furtherance of the intent of the comprehensive plan and these downtown design standards.

D. The following categories of improvements shall comply with applicable design standards:

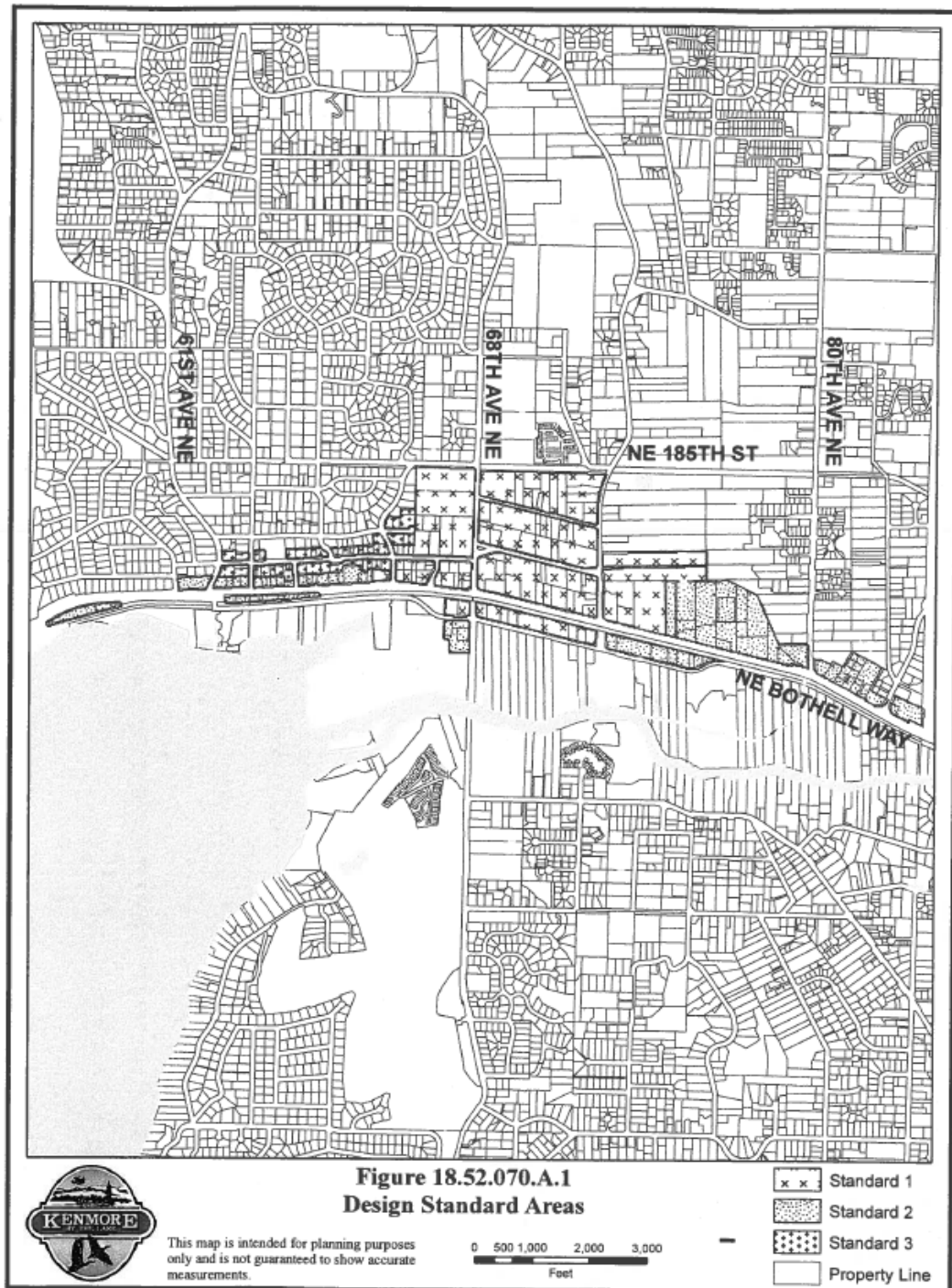
1. New construction;
2. Exterior remodels of existing *structures*;
3. Parking reconfigurations;
4. *Building* expansions.

E. The following categories of improvements are exempt from applicable design standards:

1. Re-roofing that does not modify the roof structure;
2. Repainting;
3. Interior remodels;
4. Mechanical equipment replacement;
5. Parking lot pavement patching, or stall repainting that does not involve reconfiguration;
6. Normal maintenance or minor repair;
7. Any activity in which the total cost or fair market value (whichever is higher) of labor and materials combined does not exceed \$15,000; provided, that the improvement does not involve priority standards listed in subsection (F) of this section. This cost/fair market value figure shall be adjusted upward by five percent annually to address a cost of living increase; provided, that within a three-year period, if the total \$15,000 amount is exceeded, future improvements shall be subject to applicable design standards.

F. The degree to which each standard applies to a redevelopment project shall be evaluated on a case-by-case basis in an effort to achieve an overall design which meets the purpose and intent of the downtown design standards. In determining the degree of applicability, the *city manager* shall give priority to design standards which address *building* placement, parking standards, window/door treatments, and *first floor facades*.

G. For proposed existing *structure* exterior remodels, or existing *structure* expansions, parking reconfigurations, or other activities subject to design standards that are less than new construction, the *city manager* shall determine the extent of compliance with the design standards as appropriate to recognize current conditions and further the intent of the downtown design standards. The required design or development standards shall be related to the improvement proposed. For example, if a parking reconfiguration is proposed, the required design standards should address *pedestrian walkways* between parking lots and building entrances or parking lot screening; or if a building entrance is modified, visible building entrance requirements should be applied.



18.52.075**Design Review Process.**

A. Applications subject to design review shall be reviewed and processed following the permit procedures for the primary permit application(s) consistent with Chapter 19.25 KMC. [Ord. 08-0293 § 2; Ord. 07-0275 § 2; Ord. 07-0267 § 4; Ord. 03-0176 § 1.]

B. Design Departure. The *city manager* may grant approval to depart from strict adherence to the design regulations for new construction/*development* if:

1. The proposal results in superior design and fulfills the policy basis for the applicable design regulations and design guidelines; and
2. The departure will not have any substantial detrimental effect on nearby properties and the *city* or the neighborhood.

Article II. Site Design – Standards for All Uses**18.52.100****Pedestrian walkways.****A. Intent.**

1. Pedestrian Network. To create on-site pedestrian networks from *streets* and drives to building entrances, through parking lots to connect *buildings* to the *street* (see surface parking location standards), and between *sites*.

2. Through Block Connections. To create through block connections between blocks of *development*, between *streets*, and connecting *streets* to *public spaces*.

B. Standards – Required.

1. Locations. Clear and visible *pedestrian walkways* shall be provided in the following locations:

- a. Through Block Connections.

(1) Northwest Quadrant. If the property abuts a proposed pedestrian route designated in the Northwest Quadrant circulation plan, KMC 18.52.110. In areas not identified on the circulation plan, one *pedestrian walkway* shall be provided for an average of every 300 feet or less of *street frontages* in the north-south and east-west directions to create a linked *pedestrian walkway* system around and through the Northwest Quadrant. Distances may vary from exactly 300 feet to accommodate linking adjacent *development* on a case-by-case basis.

(a) *Public spaces* shall be linked to adjacent *streets* and *developments*.

(b) Exact locations of *pedestrian walkways* shall be determined at the time of *development* to accommodate linkages between adjacent *developments*.

(2) Northeast Quadrant. In the Northeast Quadrant, one *pedestrian walkway* shall be provided between the north and south end of the property, spaced an average of every 300 feet or less of *street frontages*. The walkway must connect with walkways located on other properties established in accordance with this condition. Distances may vary from exactly 300 feet to accommodate linking adjacent *developments* on a case-by-case basis. The comprehensive plan downtown circulation concept shall be a general guide to priority pedestrian links.

(a) *Public spaces* shall be linked to adjacent *streets* and *developments*.

(b) Exact locations of *pedestrian walkways* shall be determined at the time of *development* to accommodate linkages between adjacent *developments*.

b. *Street* to Building Entrances. Between a public right-of-way and building entrances where the *building* is set back from the *street*, sidewalk, or parking area.

c. Parking Lots to Building Entrances. Between parking lots and building entrances.

d. *Building* to *Building*. Between *buildings* where multiple *structures* are a part of a single *development* project.

e. As identified on the Northwest Quadrant circulation plan, which is located in KMC 18.52.110.

2. Minimum/Average Width.

a. For *buildings* up to three stories in height, *pedestrian walkways* shall be a minimum of four feet wide with a minimum average width of six feet. The minimum/average walkway width does not include additional areas which may be required for *landscaping* or *site* furnishings.

b. For *buildings* greater than three stories in height, one of the following shall be used:

(1) A minimum of eight feet wide with a minimum average width of 12 feet. The minimum/average walkway width does not include additional areas which may be required for *landscaping* or *site* furnishings.

(2) *Building* walls above three stories in height shall be stepped back from the first three stories by 10 feet. (See *building* locations/*setbacks*, KMC 18.52.150 and 18.52.160.)

3. Lines of Sight. Locate walkways with clear sight lines for safety. Landscaping and site furnishings in the walkway shall not obstruct visibility of the walkway or sight lines to building entrances.

4. Clearly Defined Walkways. Define all *pedestrian walkways* using a combination of one or more of the following techniques:

a. Special Paving. Scored concrete, stained/colored concrete, concrete pavers, paving inlays, mosaics, or other special paving material. Not all portions of the *pedestrian walkway* are required to be paved; however, a minimum of 60 percent of the *pedestrian walkway* shall provide an all-weather walking surface;

b. Architectural Features. Trellises, railing, low seat walls, *weather protection*, bollards, or other architectural features. Chain link *fences* are not allowed;

c. Landscaped Edges. A continuous, landscaped area a minimum of three feet wide flanking at least one side of the *pedestrian walkway*. *Landscaping* shall meet the city's *landscaping* requirements. In the case of through block connections, this subsection (B)(4)(c) shall apply in all cases, in addition to either subsection (B)(4)(a) or (b) of this section.

5. Lighting. *Pedestrian walkways* shall include lighting such as pedestrian lights, bollards, and accent lighting to assist pedestrian navigation and promote a safe and comfortable walking space.

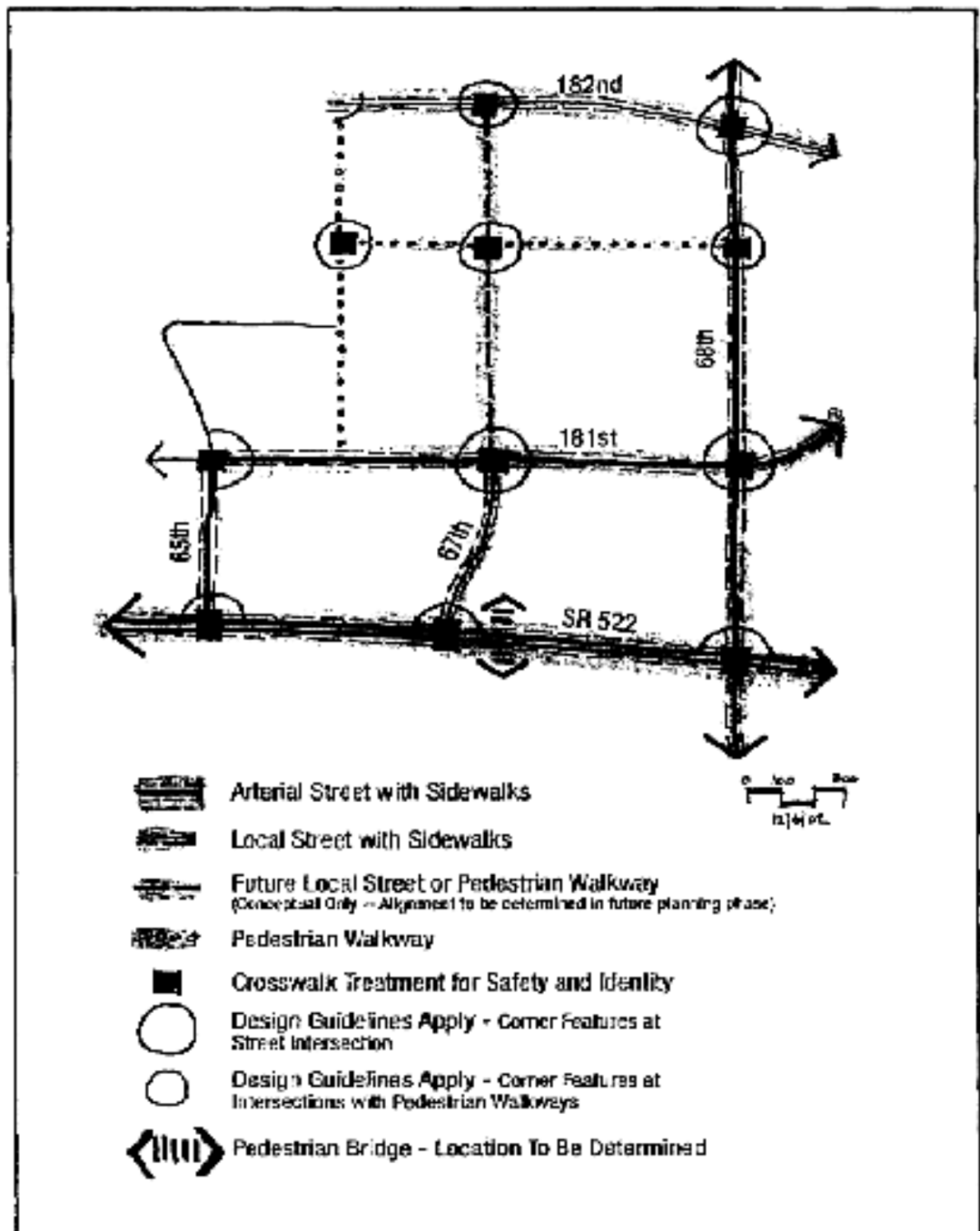
6. *Pedestrian Walkways* in Parking Lots. Where a walkway abuts or intersects a vehicular route (a driveway or driving aisle within a parking lot), *landscaping* shall be required consistent with subsection (B)(4)(c) of this section. If the walk-way abuts a driveway or driving aisle on both sides, subsection (B)(4)(c) of this section shall apply to both sides.

C. Not Allowed.

1. Narrow breezeways between *buildings* without architectural embellishments or site furnishings shall not be allowed. [Ord. 03-0176 § 1.]

18.52.110

Northwest Quadrant circulation plan.



Notes: This map is intended for planning purposes only and is not guaranteed to show accurate measurement. Signals at pedestrian crossings will be evaluated on a case-by-case basis.

Source: Arai/Jackson Architects and Planners and Berger/ABAM Engineers.

[Ord. 03-0176 § 1.]

18.52.120

Public spaces and plazas.

A. Intent.

1. Comfortable and Usable *Public Space*. Create usable, accessible, and inviting *public open space* for pedestrians.

B. Standards – Required.

1. Access. *Public spaces* shall be visible and accessible to the public. All *public spaces* shall have pedestrian access from the primary public right-of-way or designated *pedestrian walkway*.

2. *Public Space Amenities*. *Public spaces* and plazas shall include at least one or more of each of the following elements (in subsections (B)(2)(a) through (c) of this section):

a. Special Paving. Scored concrete, stained/colored concrete, concrete pavers, paving inlays, mosaics, or other special paving material.

b. Landscaping. *Trees*, shrubs, trellises, flowers, or container plants.

c. Seating Area. Benches, low seating walls. Four linear feet or at least one seat per 60 square feet of plaza area or open space.

In addition to the requirements in subsections (B)(2)(a) through (c) of this section, *public spaces* and plazas shall also contain one or more of the following elements:

d. Public art, fountain, or sculpture;

e. Drinking fountain;

f. Gazebos or other covered/sheltered space;

g. Other elements which meet the intent of this section such as grade/elevation changes, historic markers, art elements, pools, or others.

3. Site Lighting. Use site lighting such as pedestrian lights, bollards, accent lighting, or *building-mounted* lighting to provide safe and comfortable *public spaces*. See site lighting standards, KMC 18.52.140.

4. Solar Access. Where feasible, locate *public spaces* and *courtyards* to maximize southern and western sun exposure. [Ord. 03-0176 § 1.]

18.52.130

Furnishings.

A. Intent.

1. Furnishings Add Comfort and Detail. To create inviting, pedestrian-friendly *public spaces* by incorporating site furnishings in plazas, *public spaces*, building entries, and in other pedestrian areas.

B. Standards – Required.

1. Durable Furnishings. Site furnishings (benches, tables, bicycle racks, bollards, trash receptacles) and pedestrian amenities shall be made of durable, vandal resistant, and weather resistant materials which do not retain rainwater.

2. Siting. Site furnishings shall be located in all required *public spaces* such as:

a. Plazas, *pedestrian walkways* and other pedestrian areas;

b. Where building *setbacks* are allowed to:

(1) Highlight building entrances (a minimum 3.5 feet recessed depth or greater than or equal to 16 square feet);

(2) Provide seating in a landscaped public area. Seating shall be provided at a ratio of four linear feet or at least one seat per 60 square feet of plaza area or open space.

3. Placement. Site furnishings shall not impede or block pedestrian access to plazas, open spaces, or building entrances.

4. Incorporate Site Furnishings. Use a combination of four or more site furnishings in required *public spaces*. Site furnishings include but are not limited to:

a. Trash receptacles (required as one of the four site furnishings);

- b. Benches/seating;
- c. Tables;
- d. Bike racks;
- e. Drinking fountains;
- f. Pedestrian-scaled lighting (other than street lights in the public right-of-way);
- g. Public art;
- h. Container plants. [Ord. 03-0176 § 1.]

18.52.140**Site lighting.****A. Intent.**

1. Adequate Lighting Levels. To provide adequate lighting levels in pedestrian areas such as plazas, *pedestrian walkways*, parking areas, building entries, and other public areas.
2. Complement Street Lighting. To provide pedestrian-scaled, accent, and festival lighting to accompany street lighting.
3. Safety. To provide well-lit, comfortable, and safe pedestrian areas.
4. Minimize Night Glow. To ensure adequate lighting is confined to the project *site* and minimizes night glow and impacts to adjacent properties.

B. Standards – Required.

1. Light Pedestrian Areas. Use pedestrian-scaled lighting to define plazas, *courtyards*, *pedestrian walkways*, crosswalks, building entries, and other pedestrian areas. Pedestrian-scaled lighting includes but is not limited to:
 - a. Pedestrian lights (maximum 14-foot height);
 - b. Bollard lights;
 - c. Accent lighting.
2. Shielding. All site lighting shall be shielded and directed away from adjacent *buildings* to avoid glare and “night glow.” Site lighting will be reviewed on a project specific basis to ensure site lighting is directed onto the pedestrian area and away from adjacent *uses*. Site lighting review will address:
 - a. Footcandle illumination;
 - b. Optics;
 - c. Shielding techniques;
 - d. Consideration of adjacent *uses*, especially adjacent residential *buildings*.
3. Adequate Illumination. Site lighting shall be reviewed on a project specific basis to ensure pedestrian areas are adequately lit. Review considerations shall include:
 - a. Spacing;
 - b. Height of light fixture;
 - c. Shielding techniques.
4. Complementary Style. Site lighting shall complement and coordinate with other site furnishings used throughout the *site development* project and shall complement street lighting in the public right-of-way.
5. Light Special Areas. Use accent lighting at focal points such as building entrances, site entrances, public art, and landscape features. [Ord. 03-0176 § 1.]

18.52.150**Building location/setbacks (for commercial/mixed use buildings).****A. Intent.**

1. Retail Visibility. To ensure visibility of retail businesses, to establish active, lively uses along the sidewalk, and to encourage strolling in the downtown.

B. Standards – Required.

1. *Buildings* Close to Sidewalk. The majority of *buildings* shall be located directly abutting the sidewalk except where set back to highlight building entrances, plazas or to provide wider sidewalks, as follows:
 - a. Highlight Entrances. A minimum *setback* of four feet shall be allowed to highlight entrances or to provide wider sidewalks;
 - b. Landscaped Area. A maximum *setback* of up to 10 feet shall be allowed to provide seating in a landscaped public area;

c. *Corner Lots*. On corner *lots*, the *building* shall face the primary *street*; the primary entrance must be on one of the two *streets*, with the location determined on a case-by-case basis, evaluating access, volumes, adjacent *uses*, on-site and through-site circulation, and other fixed site features;

d. *Plazas at Corners*. A maximum *setback* of up to 10 feet on corner *lots* shall be allowed to provide plaza space;

e. *Multiple buildings in one development*, or properties subject to compliance with KMC 18.52.170(B)(2), surface parking lot location *street frontage*. At least 55 percent of the *lot* frontage shall be occupied by the primary *building*. The remaining *buildings* and associated parking may be set back further from the *street*. In cases where the *development* is on a corner *lot*, the *building* shall abut the primary *street*; the primary entrance must be on one of the two *streets*, with the location determined on a case-by-case basis, evaluating access, volumes, adjacent *uses*, on-site and through-site circulation, and other fixed site features;

f. *Properties Fronting SR-522*. Parcels fronting SR-522 shall be set back 10 feet from the right-of-way to allow for sidewalks, provided for all parcels fronting on the south side of SR-522 and zoned Regional Business, located east of 61st Avenue NE and west of 68th Avenue NE, the minimum *street setback* requirements shall be as follows:

(1) *Ground floors* shall maintain a minimum and maximum *setback* of 10 feet.

(2) For stories located below the *ground floor*, the minimum *setback* shall be 0 feet, and the maximum *setback* shall be 10 feet.

(3) For facades above the *ground floor* (minimum elevation of 15 feet above street level), the minimum *setback* at any one point shall be no less than five feet, and the maximum *setback* at any one point shall be no greater than 10 feet. The *setback* may be averaged between a minimum of five feet and a maximum of 10 feet for purposes of *modulation*, but shall not be less than or greater than the minimum or maximum *setbacks* at any one point;

g. *Recessed entrances* are allowed;

h. *On-Street Parking*. *Buildings* may be set back to a planned right-of-way boundary for the purposes of adding on-street parking. [Ord. 07-0267 § 7; Ord. 03-0176 § 1.]

18.52.160

Building setbacks (for residential/primarily residential uses).

A. Intent.

1. *Pedestrian Orientation and Densities*. To ensure pedestrian orientation and desired densities in downtown.

2. *Transition and Buffer*. To provide minor transition and buffer areas between *streets* and residences which can function as outdoor space.

B. Standards – Required.

1. *Buildings Close to Sidewalk*. A minimum six-foot *setback*, with an average *setback* of eight feet per *street frontage* shall be required of primary *structures* to allow for shallow, residential front yards. The minimum *setback* for garages, carports, and paved parking shall be 10 feet. In the Northwest Quadrant, maximum *setbacks* for any *structures* shall be 10 feet.

2. *Modulate Street Facing Facades*. Use minor *modulation* techniques such as:

- a. *Recessed entries*;
- b. *Landscaped gardens*;
- c. *Plazas*;
- d. *Courtyards*.

3. *Palette of Front Yard Transition Elements*. Use two or more of the following elements to provide front yard transitions and create usable front yard space:

- a. *Steps*;
- b. *Low fences*;
- c. *Trellises*;
- d. *Site furnishings*;
- e. *Low hedges, trees, and landscaped borders*;
- f. *Patios* if a low *fence* or trellis is included for added privacy.

4. *Palette of Entrance Elements*. Provide entrance elements such as:

- a. *Gates*;
- b. *Archways or arbors*;
- c. *Walkway covers*;

- d. Special paving;
- e. Pedestrian lighting. [Ord. 03-0176 § 1.]

18.52.170**Surface parking lot location.****A. Intent.**

1. Maintain Active *Street Frontage*. To maintain contiguous active pedestrian *street frontages* by avoiding parking lot siting along sidewalks and *street frontages*.

2. Impacts. To minimize visual impact of parking lots through screening where parking lots are unavoidable on *street frontages*.

B. Standards – Required.

1. Location of Parking Lots. For all new *development*, parking lots shall be located behind or to the side of *buildings*, or enclosed within or underneath the *building*. Parking lots shall be avoided along primary *street frontages*; on a corner *lot*, the primary entrance must be on one of the two *streets*, with the location determined on a case-by-case basis, evaluating access, volumes, adjacent *uses*, on-site and through-site circulation, and other fixed site features. The parking lot screening requirements in KMC 18.52.180 apply where a surface parking lot or portions of a surface parking lot abut a public right-of-way. Parking lots shall not be located between a public right-of-way and the *building* unless the following exceptions apply:

- a. No other feasible alternative exists; or
- b. The property has frontage on SR-522 and takes primary access from SR-522 as of May 8, 2003; and/or
- c. The *development* consists of multiple *buildings* in one *development* on a minimum of four acres;

In which case, the provisions of subsection (B)(2) of this section applies.

2. *Street Frontage*. Where consistent with the exceptions of subsection (B)(1) of this section, parking lots on *street frontages* shall be located between *buildings*, with no less than 55 percent of the property *street frontage* devoted to the *building facade*. The *street frontage* devoted to surface parking shall also be appropriately screened per the parking lot screening standards in KMC 18.52.180.

3. *Pedestrian Walkways*. Where a surface parking lot is located between the public right-of-way and the primary *building*, a *pedestrian walkway* shall be provided through the parking lot to connect the *building* to the *street* per the *pedestrian walkway* standards in KMC 18.52.100 and the development standards of KMC 18.40.100(C). [Ord. 03-0176 § 1.]

18.52.180**Parking lot screening.****A. Intent.**

1. Reduce Visual Prominence. To reduce visual impact of parking lots through screening techniques.

B. Standards – Required.

1. Perimeter Screening. Where surface parking lots are adjacent to a public right-of-way, the parking lot shall provide a minimum 10-foot-wide planting strip between the parking lot and right(s)-of-way. Landscape requirements in Chapter 18.35 KMC also apply.

2. Screening Techniques. Year-round perimeter screening shall provide a visually impervious screen utilizing one or more of the following screening techniques:

a. Screen Walls. Low walls, opaque hedge walls, etc., shall be a minimum of three feet in height and maximum of four feet in height. Where screen walls are used, the 10-foot-wide planting strip requirement may be reduced by two feet.

b. Screen Wall Transparency. For screen walls taller than four feet in height, all elements above four feet shall be made of semitransparent materials, i.e., lattice walls, trellises, etc. Those portions of the screen wall taller than four feet in height shall be a minimum of 85 percent transparency (i.e., see-through railing, trellis, or similar treatment).

c. *Evergreen* Shrubs. Shrubs shall be maintained at a maximum four feet in height from the sidewalk to maintain visibility into the *site* for security/safety purposes. At planting, shrubs shall be a minimum two-gallon pot size or balled and burlapped equivalent.

d. *Trees*. A mixture of *evergreen* and *deciduous trees* and shrubs. At planting, *deciduous trees* shall be a minimum three-inch *caliper*. *Evergreen trees* shall be a minimum of six foot height to the uppermost branching point at planting.

e. *Wood Fences*. If a wood *fence* is used, the *fence* shall have decorative detailing at the top (i.e., trellis materials) and an eight-foot-wide planting strip. The requirements of subsection (B)(2)(b) of this section are also applicable.

3. *Supporting Ground Cover*. *Evergreen* ground cover, other than grass, shall be used in addition to the screening techniques identified above. A maximum of 45 percent of all ground cover required shall be dedicated to grass.

C. Not Allowed.

1. *Plain Fence*. Unadorned wood *fences* or chain link fencing are not allowed. [Ord. 03-0176 § 1.]

18.52.190

Location of driveways.

A. Intent.

1. *Minimize Sidewalk Interruptions*. To maintain continuous uninterrupted sidewalks by minimizing, consolidating, and eliminating driveways and promoting shared access to the extent possible.

B. Standards – Required.

1. *Locate Driveways*. Locate vehicular driveways on side *streets* and *alleys* unless the primary *street* is the only means of access to the *site*.

2. *Parking Lot Entrances*. Parking lot entrances shall be clearly identified with markers such as a trellis, monument, low wall, or landscaping.

3. *Continuous Sidewalks*. Extend sidewalk paving across driveway to maintain sidewalk continuity.

4. *Kenmore Street Standards*. Driveway locations shall satisfy the requirements of the current *city* adopted *street* standards. [Ord. 03-0176 § 1.]

18.52.200

Outdoor service and storage areas.

A. Intent.

1. *Screening*. To maintain design continuity by screening mechanical, service, and storage areas.

B. Standards – Required.

1. *Siting of On-Site Storage Areas*. All outdoor service and storage areas such as mechanical equipment, *outdoor storage*, trash/recycling containers, satellite dishes, accessory telecommunications devices, etc., shall be fully screened and shall not be visible from adjacent public *streets* or from views above from adjacent *buildings*. The Kenmore development standards and design requirements of KMC 18.30.250 also apply.

2. *At-Grade Service Areas*. At-grade storage areas such as *outdoor storage* and/or trash/recycling containers shall be screened from adjacent *streets* and public rights-of-way and from views above from adjacent *buildings*. Pedestrian-oriented trash receptacles along walkways and in *public spaces* are excepted from this requirement.

3. *Screening Techniques*. Service area screening shall be 100 percent sight-obscuring, year-round utilizing one or more of the following screening techniques:

- a. *Fences and Walls*. Fencing and wall materials shall be integrated and compatible with the design of the *building* (i.e., use the *building's* materials on *fence* columns);

- b. *Adjacent to Pedestrian Walkways*. Where an *outdoor storage* area is adjacent to a *pedestrian walkway*, *fences* installed for screening may be used only in combination with either landscaping, vines, trellis, or similar landscaping screening technique;

- c. *Evergreen Hedges and Shrubs*. *Landscaping* shall meet the *city's landscaping* requirements for Type I *landscaping*;

- d. *Trees*. A mixture of *evergreen* and *deciduous trees*. *Landscaping* shall meet the *city's landscaping* requirements for Type I *landscaping*.

4. *Mechanical Equipment*. Locate mechanical equipment early in the design process to ensure integration with the *building* design. Roof-mounted mechanical equipment shall be grouped together, integrated into the *building* design, and thoroughly screened from view from the street level and above from adjacent *buildings*. Roof-mounted screening techniques include but are not limited to:

- a. *Roof Treatment*. Roof line designed to screen visibility of mechanical equipment from an adjacent public *street(s)*;

- b. *Paint*. Paint mechanical equipment to match or approximate the color of the roof;

- c. Setbacks. Position mechanical equipment away from *building* edges. [Ord. 03-0176 § 1.]

Article III. Building Design – Standards for All Uses

18.52.210

Corner features.

- A. Intent.
 - 1. To ensure architectural interest and pedestrian-scaled detail in downtown.
 - 2. To allow for comfortable pedestrian queuing space.
- B. Standards – Required.
 - 1. Locations Where Standards Apply. Corner features are required at locations specified on the Northwest Quadrant circulation map, KMC 18.52.110; outside of the Northwest Quadrant, corner features shall be provided when conditions in subsections (B)(2) and (3) of this section are present.
 - 2. Corner Features for *Buildings* at Intersections Facing Two *Streets*.
 - a. Architectural Features. *Building* sides that face corners of public *streets* shall be treated architecturally to emphasize the corner location. Appropriate expressions include:
 - i. Tower forms;
 - ii. Prominent building entries;
 - iii. Oversized window treatment;
 - iv. Special rooflines;
 - v. Plazas;
 - vi. Other treatments which meet the intent of this standard.
 - b. *Building* Corner *Setbacks*. First floors of *building* corners facing intersections of two *streets* shall be set back 10 feet to accommodate pedestrian circulation. Columns are allowed in the *setback* area up to the size of a two-foot square footprint.
 - 3. Corner Features for *Buildings* at Intersections of a *Street* and a *Pedestrian Walkway* and/or Two *Pedestrian Walkways*. Entrances to *pedestrian walkways* shall be visually emphasized by the use of two of the following elements:
 - a. Special Paving. Scored concrete, stained/colored concrete, concrete pavers, paving inlays, mosaics, or other special paving material which is different from the standard sidewalk material;
 - b. Landscaping. *Trees*, shrubs, trellises, flowers, or container plants;
 - c. Seating Area. Benches, low seating walls;
 - d. Site lighting;
 - e. *City* signage. [Ord. 03-0176 § 1.]

18.52.220

Roof form.

- A. Intent.
 - 1. Distinctive Profiles. To ensure that roof forms provide distinctive profiles and visual interest.
 - 2. Express Base and Top. To provide details which break *buildings* into distinct visible elements of base and top (see upper level setbacks, mass and bulk standards in KMC 18.52.310 for details regarding *building modulation* and *articulation*).
- B. Standards – Required.
 - 1. Commercial *Buildings*. Commercial *buildings* shall use one of the following elements to create a prominent edge:
 - a. Extended parapets;
 - b. Projecting cornices;
 - c. Pitched or sloped roofs;
 - d. Decorative molding if greater than or equal to 10 inches wide.
 - 2. Predominantly Residential *Buildings*. *Buildings* which contain predominantly residential *uses* shall use the following elements to break up the massiveness of an uninterrupted flat roof:
 - a. Dormers;
 - b. Pitched roofs;
 - c. Setbacks;

- d. Roof gardens;
- e. Cornices;
- f. Parapets; and
- g. Intersecting roof forms.

These types of roof treatments shall be determined at the discretion of the *city manager*.

C. Not Allowed.

1. Flat, Unadorned Roofs. Flat roofs without architectural embellishments are not allowed on *buildings* in the downtown. [Ord. 03-0176 § 1.]

18.52.230

Structured parking.

A. Intent.

1. Visually Integrated. To visually integrate parking garages with other downtown *uses* through active *ground floor uses*, and the use of architectural treatments, such as materials, treatments of openings, and *human-scaled facade elements*.

2. Garage Elevations. To ensure that parking garage facades facing public rights-of-way screen cars from view and resemble commercial, office, civic, and mixed use building elevations.

B. Standards – Required.

1. Retail Frontage Along *Streets*. Parking structures shall provide retail usages for at least 50 percent of the first floor *street frontages* (*sites* fronting 182nd excepted).

2. Treatments in Nonretail Areas. Portions of ground level facade not occupied by retail *uses* shall integrate one or more of the following into the ground level facade:

- a. Ornamental grillwork (other than plain horizontal or vertical bars);
- b. Decorative artwork (metal panels, ceramic, mosaics, etc.);
- c. Display windows for events;
- d. Brick, tile, or stone;
- e. Pre-cast panels;
- f. Wood paneling;
- g. *Blank wall* treatments per the *blank wall* standards, KMC 18.52.240;
- h. Other treatments which meet the intent of these standards.

3. Opening Size. The maximum size of window and facade openings shall be 64 square feet (excluding driveway/parking garage entry). The window/facade openings shall be treated further with minimum 24-inch mullions to prevent large openings in the parking garage facade.

4. Treatments in Primarily Residential Areas. Ground level facade treatments for residential parking garages shall integrate one or more of the following:

- a. Ornamental grillwork (other than plain horizontal or vertical bars);
- b. Decorative artwork (metal panels, ceramic, mosaics, etc.);
- c. Brick, tile, or stone;
- d. Pre-cast panels;
- e. Wood paneling;
- f. *Blank wall* treatments per the *blank wall* standards, KMC 18.52.240.

5. Facade *Articulation*. At least two of the following elements shall be incorporated into parking garage facades to articulate the facade and provide *human-scaled architectural elements*:

- a. Piers or pilasters;
- b. Recessed window openings;
- c. Window sills and details;
- d. Masonry trim;
- e. Accent materials;
- f. Tile, stone, or pre-cast panels;
- g. Other treatments which provide facade *articulation*.

6. *Architectural Elements* in Vehicular Entrances. Vehicular entrances to structured parking shall incorporate two of the following elements into the design:

- a. Arches;

- b. Lintels;
- c. Piers or pilasters;
- d. Masonry trim;
- e. Planters;
- f. Ornamental lighting;
- g. Tile, stone, or pre-cast panels.

7. *Townhouse* Units. Each unit shall have an individual garage, enclosed under the living spaces. Such garage shall be located on a different facade from the main entry of the unit.

C. Not Allowed.

- 1. Plain Concrete Facades. Plain, unadorned, or smooth concrete facades are not allowed.
- 2. Horizontal or Vertical Bars. Unadorned horizontal or vertical bars are not allowed in parking garage window openings. [Ord. 03-0176 § 1.]

18.52.240

Blank wall and side wall screening.

A. Intent.

1. Continuity of Visual Interest. To ensure that all sides of a *building* in the *public view* have visual interest and continuity of pedestrian-oriented building scale.

B. Standards – Required.

1. Architectural Treatments for Visible *Building* Sides. All sides of *buildings* visible from a public right-of-way shall be treated with two or more of the following elements:

- a. Visible rooflines (i.e., cornices, extended parapets, pitched/sloped roofs, decorative molding, etc.);
- b. Windows;
- c. Secondary entrances;
- d. Balconies;
- e. Awnings;
- f. Oversized window treatments;
- g. Other architectural details which meet the intent of this standard.

2. Detailed Walls Required. *Ground floor* walls (including *retaining walls*) within *public view* shall have architectural detail such as windows, doors, reveals, and other architectural features as described in the *building design* section of these standards. A wall is considered a *blank wall* if:

- a. A *ground floor* wall or portion of a *ground floor* wall over six feet in height that has a horizontal length greater than 15 feet and does not include architectural detailing; or
- b. Any portion of a *ground floor* wall having a surface area of 400 square feet or greater.

3. *Blank Wall* Screening. Where a *blank wall* within the *public view* is unavoidable due to Uniform Building Code regulations (such as where a side *building* wall abuts a property line), *blank walls* shall be treated with two or more of the following:

- a. *Vegetation*, including *trees*, shrubs, *evergreen* ground cover (in conjunction with other landscaping) or vines adjacent to the *blank wall* surface;
- b. Trellis vine panels;
- c. Architectural detailing such as reveals, contrasting materials, or other special detailing which meet the intent of this standard.

Due to the many potential site-specific conditions which could occur, blank/side wall treatment shall be subject to the *city manager's* discretion and approval.

C. Not Allowed.

- 1. Murals. Murals shall not be permitted pending the completion of *city* standards addressing appropriate allowances, criteria, and locations. [Ord. 03-0176 § 1.]

18.52.250

Pedestrian bridges.

A. Intent.

1. Active and Accessible. Locate pedestrian bridge(s) in active places which are accessible at all hours and promote safe passage over major roadways.

2. Unique Architectural Qualities. To develop unique and inviting pedestrian bridges as key gateway features which are integrated with *buildings* at bridge ends.

B. Standards – Required.

1. Locate Bridge Ends in Active *Buildings* and Places. Locate bridge ends in active, publicly accessible *buildings* or places which are accessible and secure at all hours.

2. *Building* and Landscape Treatments. Pedestrian bridges shall be designed as unique *structures* which serve as a key gateway feature to the downtown.

3. Integration with End *Structures*. The appearance, materials, and style of pedestrian bridges shall be architecturally integrated with the end *structures* or places.

4. *Weather Protection*. *Weather protection*, in the form of a roof or canopy structure, shall be provided over the entire length of pedestrian bridges. [Ord. 03-0176 § 1.]

Article IV. Building Design – Standards for Commercial/Mixed Use Buildings

18.52.260

Visible building entrances.

A. Intent.

1. Visible and Welcoming Entrances. To make major building entrances obvious and welcoming.

B. Standards – Required.

1. Visual Prominence. The primary building entrance shall be made visibly prominent utilizing a minimum of five of the architectural treatments listed below. At least one element shall be selected from each of the categories listed below (i.e., at least one element from subsections (B)(1)(a), (b) and (c) of this section).

a. Facade Features.

- i. Recess;
- ii. Canopies;
- iii. Trellis;
- iv. Porticos;
- v. Porches.

b. Doorway Features.

- i. Clerestory;
- ii. Transom windows;
- iii. Glass windows flanking door;
- iv. Large entry doors;
- v. Ornamental lighting;
- vi. Lit displays.

c. Detail Features.

- i. Special entry paving;
- ii. Ornamental building name or address;
- iii. Planters or pots of flowers;
- iv. Seating.

2. *Weather Protection*. Provide some form of *weather protection* at building entrances such as a canopy, marquee, or awning. This feature may be combined with the methods used above to achieve visual building entry prominence. [Ord. 03-0176 § 1.]

18.52.270

Ground floor facades.

A. Intent.

1. Visual Interest in Ground Level Activities. To visually and architecturally express ground level activities which promote the pedestrian environment.

B. Standards – Required.

1. Architectural Treatments and Details. Commercial *building facades* facing *streets* shall incorporate at least two elements from each of the following categories, with a minimum of five total treatments required:

a. Palette of Window Treatments.

- i. Large storefront windows above kickplates;
- ii. Clerestory windows;
- iii. Recessed windows;
- iv. Mullions.
- b. Palette of Facade Treatments.
 - i. Lighting or baskets supported by ornamental brackets;
 - ii. Medallions;
 - iii. Belt courses;
 - iv. Plinths for columns;
 - v. Piers or pilasters;
 - vi. Projecting sills;
 - vii. Tilework;
 - viii. Stone or concrete masonry;
 - ix. Pedestrian-scaled *signs*;
 - x. Planter boxes; or
 - xi. Other architectural treatments which meet the intent of this standard. [Ord. 03-0176 § 1.]

18.52.280**Ground floor transparency and visibility.**

- A. Intent.
 - 1. Visual Interest in Ground Level Activities. To visually and architecturally express ground level activities which contribute to the pedestrian environment.
 - 2. Visibility into *Buildings*. To provide visibility into *buildings* and from *buildings* out to the sidewalks.
- B. Standards – Required.
 - 1. Clear Glass Windows. A minimum of 50 percent of the *ground floor* facade of commercial *buildings* fronting public *streets* shall be comprised of windows. The façade shall be measured from the ground to the projected interior ceiling height.
 - 2. Film. Film may be applied to windows to provide shade and for energy efficiency provided full transparency and visibility is maintained into the *building* from the sidewalk.
 - 3. Visible Light Transmittance. Windows shall have a minimum 50 percent visible light transmittance.
- C. Not Allowed.
 - 1. Reflective Glass or Film. Reflective glass and/or reflective film which diminish transparency are not allowed. [Ord. 03-0176 § 1.]

18.52.290**Weather protection.**

- A. Intent.
 - 1. *Weather Protection*. To provide *weather protection* for pedestrians throughout downtown.
- B. Standards – Required.
 - 1. Canopies, *Arcades*, or Awnings. Canopies, *arcades*, or awnings shall be provided on commercial *building facades* facing *streets*. Dimensions shall provide a:
 - a. Minimum canopy depth of five feet;
 - b. Vertical height above the sidewalk and underside of canopy between eight and 10 feet;
 - c. Minimum protection along 80 percent of the *building facade* facing a public right-of-way;
 - d. If an *arcade* is proposed, the specific dimensions and length of the *arcade* will be negotiated on a case-by-case basis to ensure adequate light, air, and visibility through to *ground floor* windows and *building* entries from the *street*.
- C. Not Allowed.
 - 1. Internal or Backlit Canopies. Internal, backlit, or uplit canopies are prohibited. Downlighting is allowed to light sidewalk for pedestrians.
 - 2. Awnings as Signage. Awnings shall not be used as primary signage, including use of print and backlighting. If awnings are used for signage, the drop edge of the awning/canopy shall not exceed 12 inches in height. In addition, the city's sign code requirements shall apply. [Ord. 03-0176 § 1.]

18.52.300**Building materials.****A. Intent.**

1. To develop a visual downtown identity and to ensure that downtown *development* forms a cohesive visual whole over time. This shall be accomplished through the use of a primarily masonry materials palette.

2. To provide a materials palette which allows for individual and creative architectural expression in individual *development*.

B. Standards – Required.

1. Primary Materials Palette. Commercial and mixed use *buildings* shall be built with materials which will form a visually cohesive identity over time. Facades of commercial and commercial levels of mixed use *buildings* shall be primarily of the following masonry materials:

a. Brick;

b. Stone;

c. Ceramic Tile. Alternate coursing with changes in color and/or texture is required with use of tile. Alternate coursing can be vertical, horizontal, or both;

d. Split Face Alternate Course Concrete Masonry Units. Alternate coursing with changes in color and or texture is required with use of split face masonry units. Alternate coursing can be vertical, horizontal, or both;

e. Stucco, if limited to a maximum 50 percent of total building surface area.

2. On any façade adjoining a public sidewalk, at the first two stories above the public sidewalk level, and at exposed stories below the public sidewalk level, primary materials must cover 85 percent of the opaque surfaces on any elevation. On other facades in the public view (from adjacent public *streets*, *pedestrian walkways*, or *public spaces*), primary materials must cover more than 50 percent of the opaque surfaces.

Exceptions:

a. Transparent glass may cover 75 percent of the first story of any one facade. Transparent glass may cover 40 percent of the second story of any one facade.

b. Where there are two front property lines, transparent glass may cover 75 percent of a second facade if the facade is within 15 feet of the property line.

3. Residential Floors, Mixed Use *Buildings*. Nonmasonry materials may be used as a primary material in the residential portions of mixed use *buildings* subject to any applicable restrictions in this section.

4. Vinyl Siding. Vinyl siding is only permitted on floors three and above, and shall not exceed 15 percent of the total building surface area of those floors.

C. Not Allowed.

1. Plain Faced and/or Uncolored Concrete Masonry Units. Plain faced and/or uncolored concrete masonry units shall not cover an area greater than five percent of any facade.

2. Siding Materials Not Allowed. The following siding materials are not allowed on any *building facade*:

a. Asphalt siding;

b. Aluminum lap siding;

c. Siding grade plywood. [Ord. 03-0176 § 1.]

18.52.310**Upper level setbacks, mass, and bulk.****A. Intent.**

1. Develop Pedestrian Scale. To ensure that multiple-storied *building facades* do not overwhelm the pedestrian orientation and scale of downtown.

B. Standards – Required. A minimum of two of the following techniques shall be applied to facades visible from public rights-of-way and *public spaces* to minimize the apparent bulk and mass of a *building*:

1. Step Back *Buildings* Over Two Stories. *Buildings* above two stories in height shall step back the upper stories as follows:

a. Stepbacks above two stories shall be a minimum of six feet from the first two floors;

b. A second, minimum six-foot stepback shall be made above four stories;

c. Evident Decrease in Bulk. Stepbacks need not be continuous and uniform across the entire facade as long as bulk is visually decreased.

2. Horizontal *Building Modulation*. Use bays, recesses, and building projections to provide variations in large facades.
 - a. The maximum horizontal length without *building modulation* shall be 100 feet.
 - b. *Modulation Depth*. The minimum *modulation* depth shall be six feet.
3. Modulated Roof Line. Provide breaks in the roofline by alternating stepped roofs, gables, dormers, etc. (see roof form standards, KMC 18.52.220).
4. *Articulation*. *Building articulation* with at least one of the following *architectural elements*:
 - a. Change in materials or color with a change in *building plane*;
 - b. Decks and Balconies. Decks, terraces, and balconies are encouraged but not required, and may be roofed or open;
 - c. Bay windows;
 - d. Repeat distinctive window patterns at horizontal *modulation* intervals.
5. Other Treatments. Other architectural treatments which meet the intent of this standard.
- C. Exceptions.
 1. Stairs, Corner Features, and Other Architectural Features. Stairs, corners, and other vertical architectural features are not required to step back. [Ord. 03-0176 § 1.]

Article V. Building Design – Standards for Residential/Primary Residential Uses

18.52.320

Primary residential entrances.

(Applies to all multifamily residential *development* except *townhouses*).

- A. Intent.
 1. Active and Lively *Street*. To face residential entrances onto *streets* to create and maintain a lively and active downtown.
 2. Safe and Welcoming Entry. To provide safe and welcoming *building* entries.
- B. Standards – Required.
 1. Visible Entrance. The primary building entrance shall be visible from the adjacent *street*.
 2. Weatherproof Covering. All building entries shall have a weatherproof covering.
 3. Secure and Direct Access. Primary building entries shall provide secure and direct access to lobbies, stairs, and elevators. Gated entries are not allowed.
 4. Entrance Dimensions. The primary residential entrance shall be a minimum four feet deep and a width at least 50 percent wider than the entry doors.
 5. Visual Prominence. The primary building entrance shall be made visibly prominent utilizing a minimum of five of the architectural treatments listed below. At least one element shall be selected from each of the categories listed below (i.e., at least one element from subsections (B)(5)(a), (b) and (c) of this section).
 - a. Facade Features.
 - i. Recess;
 - ii. Overhangs;
 - iii. Canopies;
 - iv. Trellis;
 - v. Porticos;
 - vi. Porches.
 - b. Doorway Features.
 - i. Clerestory;
 - ii. Transom windows;
 - iii. Glass windows flanking door;
 - iv. Large entry doors;
 - v. Ornamental lighting;
 - c. Detail Features.
 - i. Special entry paving;
 - ii. Ornamental building name or address;
 - iii. Planters or pots of flowers;

iv. Seating. [Ord. 03-0176 § 1.]

18.52.330

Building mass and bulk.

A. Intent.

1. Reduce Building Bulk with Smaller Architectural Components. To reduce the apparent bulk of *buildings* by breaking them down into smaller components which are consistent with the pedestrian scale of downtown.
2. Visual Variety. To provide visual variety along *streets*.

B. Standards – Required.

1. Variations in Large Facades. Horizontal appearance facades longer than 25 feet in length shall be treated to reduce visual scale and bulk using two of the following:

- a. Bays and recesses (bays and recesses shall be a minimum of three feet in depth and eight feet long. Wall variations shall extend from first floor to roof, excluding balconies, decks, and terraces);
- b. Balconies, decks, and terraces;
- c. Distinctive roof forms;
- d. Window patterns;
- e. Changes in materials;
- f. Color differentiation;
- g. Projections or overhangs;
- h. Upper story stepbacks.

C. Not Allowed.

1. Flat *Blank Walls* Not Allowed. Flat *blank walls* are not allowed. See *blank wall* standards, KMC 18.52.240. [Ord. 03-0176 § 1.]

18.52.340

Materials.

A. Intent.

1. Ensure Quality and Maintenance Over Time. To ensure a standard of quality and maintenance over time.
2. Materials and Details that Reduce Bulk. To encourage the use of materials appropriate to residential *development* and details that reduce the visual bulk of larger *buildings*.

B. Standards – Required.

1. *Durable Materials* with Texture and Pattern. Exterior materials shall be durable and maintainable over time, including:

- a. Materials with textures or patterns;
- b. Materials which lend themselves to quality detailing and can be well maintained over time.

2. Allowed Primary Materials.

- a. Allowed primary materials include wood or masonry units (brick, stone, tile, or split face alternate course concrete);
- b. Enamel panels, and precast concrete panels. If panel materials are used, each panel shall not exceed a maximum of nine square feet.

3. Vinyl Siding. Vinyl siding is only permitted on floors three and above, and shall not exceed 15 percent of the total building surface area of those floors.

C. Not Allowed.

1. Reflective Glass. Reflective glass is not allowed.
2. Siding Materials Not Allowed. The following siding materials are not allowed on any *building facade*:
 - a. Asphalt siding;
 - b. Aluminum lap siding;
 - c. Siding grade plywood. [Ord. 03-0176 § 1.]

18.52.350

Windows.

A. Intent.

1. Active and Lively *Street*. To face windows onto *streets* to create and maintain a lively and active downtown.

- B. Standards – Required.
 - 1. Transparent Windows. Transparent windows are required where *buildings face streets*.
 - 2. Varied Window Sizes. Residential *buildings* shall be designed with varied window sizes and shape, including:
 - a. Varied shape, and number of panes;
 - b. Divided or mullioned windows if appropriate to style;
 - c. Cantilevered bay windows if appropriate to style and may project 18 inches into required stepback areas;
 - d. Recessed windows;
 - e. Visible and substantial trim;
 - f. Butt glazing is allowed.
 - 3. Visible and Substantial Trim. Windows shall be surrounded with visible and substantial trim.
- C. Not Allowed.
 - 1. Two-Light Horizontal Sliding Windows. Horizontal sliding windows with two lights are not allowed. [Ord. 03-0176 § 1.]

Chapter 18.55

CRITICAL AREAS

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- 18.55.030 Relationship to other regulations.
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Article I. Purpose and General Provisions

18.55.010

Purpose and goals.

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

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

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

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

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

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

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

18.55.020**Authority.**

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

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

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

18.55.070**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 and 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 *city manager* prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction, and shall not be removed until permanent *signs*, if required, are in place.

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

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

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

B. Fencing.

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

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

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

4. Fencing is not required for single-family residential *lots* where subdivision is not proposed. [Ord. 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 surface* area or remove flood storage capacity;

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

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

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

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

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

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

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

C. Modification to Existing *Structures*.

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

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

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

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

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

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

3. Measures to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act, Chapter 76.09 RCW; provided, that the removed *vegetation* shall be replaced *in-kind* or with similar native species within one year in accordance with an approved *restoration* plan. [Ord. 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 agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (SEPA).

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

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

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

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

18.55.170

Variances.

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

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

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

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

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

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

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

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

6. The granting of the *variance* is consistent with the general purpose and intent of the *city's* comprehensive plan and adopted development regulations.

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

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

F. Time Limit.

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

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

G. Burden of Proof. The burden of proof shall be on the *applicant* to bring forth evidence in support of the application and upon which any decision has to be made on the application. [Ord. 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 *city manager* shall grant a *reasonable use* allowance only when the following criteria are met:

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

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

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

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

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

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

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

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

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

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

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

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

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

E. Time Limit.

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

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

Article IV. Critical Areas Report

18.55.190

Critical areas reports – Requirements.

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

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

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

Within 30 days of installation of the approved *mitigation*, the *applicant* shall submit an affidavit signed by the *qualified professional* described in KMC 18.55.190 certifying that the *mitigation* has been installed consistent with the approved plan, unless the installed *mitigation* has been inspected and accepted by the *department*.

Article V. Unauthorized Alterations and Enforcement

18.55.230

Unauthorized critical area alterations and enforcement.

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

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

C. Minimum Performance Standards for *Restoration*.

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

E. *Monitoring*. *Monitoring* shall be required for five years unless otherwise determined by the *city manager*. A performance and/or maintenance bond of 125 percent of the estimated cost of restoring the *functions and values* of the *critical area* shall be posted to assure that all work or actions are satisfactorily completed or maintained in accordance with the approved plans, specifications, permit or approval requirements, and applicable regulations, and to assure that all work or actions will be completed. [Ord. 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, 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, site plan reviews, and commercial and multifamily building permits, and binding site plans to delineate and protect those contiguous *critical areas* and *buffers* listed below:

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

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

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

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

D. The *city* shall determine at the *city's* discretion that any required *critical area tract* be dedicated to the *city*, held in an undivided interest by each owner of a building *lot* within the *development* with the ownership interest passing with the ownership of the *lot*, or held by an incorporated homeowner's association or other legal entity (such as a land trust, which assures the ownership, maintenance, and protection of the tract). [Ord. 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 18.30.230. [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*. All areas within the *city* meeting the *wetland* designation criteria in the Washington State Identification and Delineation Manual (1997), regardless of any formal identification, are hereby designated *critical areas* and are subject to the provisions of this chapter.

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

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

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

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

or

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

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

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

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

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

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

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

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

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

c. Class 3 *wetlands* are those *wetlands* not rated as Class 1 or 2 *wetlands*, but 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 *city manager*. [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 or *reasonable use* exception sections of this chapter.

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

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

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

F. *Wetland Buffers*.

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

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

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

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

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

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

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

(3) The *wetland* contains variations in sensitivity due to existing physical characteristics or the character of the *buffer* varies in slope, soils, or *vegetation*, and the *wetland* would benefit from a wider *buffer* in places and would not be adversely impacted by a narrower *buffer* in other places;

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

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

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

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 *city manager* through a *variance* or a *reasonable use* exemption that a different *buffer* would provide adequate protection to the *critical area*.

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

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

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

3. Enhancing significantly degraded *wetlands*.

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

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

1. There are no reasonable on-site or in-*subdrainage basin* opportunities, or on-site and in-*subdrainage basin* opportunities do not have a high likelihood of success due to development pressures, 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 *city manager* may increase the ratios under the following circumstances:

- a. Uncertainty exists as to the probable success of the proposed *restoration* or creation; or
- b. A significant period of time will elapse between impact and replication of *wetland functions*; or
- c. *Mitigation* will occur off-site versus on-site; or
- d. Proposed *mitigation* will result in a lower category *wetland* or reduced functions relative to the *wetland* being impacted; or

e. The impact was an unauthorized impact.

3. *Decreased Replacement Ratio.*

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

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

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

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

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

H. *Wetlands Enhancement as Mitigation.*

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

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

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

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

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

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

Article X. Streams – Designation and Rating

18.55.400

Designation and rating of streams.

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

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

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

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

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

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

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

B. Ditches. Ditches are artificial drainage features created in uplands through purposeful human action, such as irrigation and drainage ditches, grass-lined swales, and canals. Purposeful creation must be demonstrated through documentation, photographs, statements and/or other evidence. Ditches are excluded from regulation as *streams*, unless they are used by fish. Drainage setbacks are required as per the *city's* surface water runoff policy (Chapter 13.35 KMC). [Ord. 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 *city manager*. [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 *city manager* shall require increased *buffer widths* in accordance with the recommendations of a *qualified professional* and the *best available science* on a case-by-case basis when a larger *buffer* is necessary to protect *stream functions and values* based on site-specific characteristics. This determination shall be based on one or more of the following criteria:

- A larger *buffer* is needed to protect other *critical areas*;
- 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 functions and values*;
- 2. The *restoration* is sponsored by a *public agency* with a mandate to do such work;
- 3. The *restoration* is not associated with *mitigation* of a specific *development proposal*;
- 4. The *restoration* is limited to removal of *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 *city manager*. [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 *city manager*. [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 *city manager* may require that all or a portion of the following be included in a habitat management plan:

a. A map drawn to scale or survey showing the following information:

(1) All lakes, ponds, *streams*, and *wetlands* on, or adjacent to, the subject property, including the name (if named), *ordinary high water mark* of each, and the *stream* type or *wetland* class consistent with this chapter.

(2) The location and description of the fish and wildlife habitats of importance on the subject property, as well as any potential fish and wildlife habitats of importance within 200 feet of the subject property as shown on maps maintained by the *city*.

(3) The location of any observed evidence of use by a listed *species*.

b. An analysis of how the proposed *development* activities will affect the fish and wildlife habitats of importance and listed *species*.

c. Provisions to reduce or eliminate the impact of the proposed *development* activities on any fish and wildlife habitats of importance and listed *species*.

d. The habitat management plan should also address the following issues:

(1) Prohibition or limitation of *development* activities within the fish and wildlife habitats of importance;

(2) Establishment of a *buffer* around the fish and wildlife habitat conservation area;

(3) Retention of certain *vegetation* or areas of *vegetation* critically important to the listed *species*;

(4) Limitation of access to the fish and wildlife habitats of importance and *buffer*;

(5) Seasonal restrictions on construction activities on the subject property;

(6) Clustering of *development* on the subject property; and

(7) The preservation or creation of a habitat area for the listed *species*.

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

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

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

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

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

G. *Buffers*.

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

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 except as otherwise approved through this chapter.

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 or thickness of geologic materials at the surface; and
4. The type of subsurface geologic structure.

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

D. *Other Hazard Areas*. *Geologically hazardous areas* shall also include areas determined by the *city manager* to be susceptible to other geological events including *mass wasting*, *debris flows*, and *differential settlement*. [Ord. 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 *city manager*. [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 *city manager* to eliminate or minimize the risk of property damage, death or injury resulting from *landslides* caused in whole or part by the *development*, based upon review of and concurrence with a *critical area* report prepared by a *qualified professional*.

a. *Minimum Buffer*. The minimum *buffer* shall be equal to the height of the slope, as measured from the toe to the top, or 50 feet, whichever is greater.

b. *Buffer Reduction*. The *buffer* may be reduced to a minimum of 10 feet when a *qualified professional* demonstrates to the *city manager's* satisfaction based upon review of a special study that the reduction will adequately protect the proposed *development*, adjacent *developments* and *uses* and the subject *critical area*.

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

- d. *Building Setback*. A building *setback* is required from the edge of the *buffer* per KMC 18.55.270.
3. *Alterations*. *Alterations* of an *erosion hazard area* or a *landslide hazard area* and/or its *buffer* may only occur for activities for which a special study is submitted and certifies that:
- The *alteration* will not increase surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions;
 - The *alteration* will not decrease slope stability on adjacent properties; and
 - 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:
- 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;
 - Structures* and improvements shall be *clustered* to avoid *geologically hazardous areas* and other *critical areas*;
 - 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;
 - Structures* and improvements shall be located to preserve the most critical portion of the *site* and its natural landforms and *vegetation*;
 - The proposed *development* shall not result in greater risk or a need for increased *buffers* on neighboring properties;
 - The use of *retaining walls* that allow the maintenance of existing natural slope area is preferred over graded artificial slopes; and
 - 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:
- Conveyed via continuous storm pipe downslope to a point where there are no *erosion hazard areas* downstream from the discharge;
 - Discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state; or
 - 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:
- 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
 - Access roads and utilities may be permitted within a *landslide hazard area* and associated *buffer* if the *city* determines that no other feasible alternative exists.

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

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

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

C. *Other Hazard Areas.* Activities on *sites* containing or adjacent to other *geologically hazardous areas* shall meet the standards of KMC 18.55.640, Performance standards – General requirements. [Ord. 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* shall determine the *flood hazard area* after obtaining, reviewing and utilizing *base flood elevations* and available floodway data for a flood having a one percent chance of being equaled or exceeded in any given year, often referred to as the “100-year flood.” The *base flood* is determined for existing conditions, unless a basin plan including projected flows under future developed conditions has been completed and adopted by the *city*, in which case these future flow projections shall be used. In areas where the flood insurance study for the *city* includes detailed *base flood* calculations, those calculations may be used until projections of future flows are completed and approved by the *city*. [Ord. 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* is exempt from this *compensatory storage* requirement.

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

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

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

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

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

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

NOTICE

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

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

1. The lowest floor shall be elevated to the *flood protection elevation*;
2. Portions of a *structure* which are below the lowest floor area shall not be fully enclosed. The areas and rooms below the lowest floor shall be designed to automatically equalize hydrostatic and hydrodynamic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for satisfying this requirement shall meet or exceed the following requirements:
 - a. A minimum of two openings on opposite walls having a total open area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - b. The bottom of all openings shall be no higher than one foot above grade; and
 - c. Openings may be equipped with screens, louvers or other coverings or devices if they permit the unrestricted entry and exit of floodwaters;
3. Materials and methods which are resistant to and minimize flood damage shall be used; and
4. All electrical, heating, ventilation, plumbing, air conditioning equipment and other utility and service facilities shall be floodproofed to or elevated above the *flood protection elevation*.

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

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

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

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

1. *Mobile homes* shall meet all requirements for flood hazard protection for residential *structures*, shall be anchored and shall be installed using methods and practices which minimize flood damage; and
2. No permit or approval for the following shall be granted unless all *mobile homes* within the *mobile home park* meet the requirements for flood hazard protection for residential *structures*:
 - a. A new *mobile home park*;
 - b. An expansion of an existing *mobile home park*; or
 - c. Any repair or reconstruction of *streets*, utilities or pads in an existing *mobile home park* which equals or exceeds 50 percent of the value of such *streets*, utilities or pads.

H. Utilities shall meet the following requirements:

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

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

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

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

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

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

J. Prior to approving any permit for alterations in the *flood fringe*, the *city* shall determine that all permits required by state or federal law have been obtained. [Ord. 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* determines that no feasible alternative *site* is available, subject to the following requirements:

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

2. Construction of sewage treatment facilities shall be prohibited.

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

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

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

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

Chapter 18.57

TREE MANAGEMENT AND PROTECTION

Sections:

- | | |
|-----------|-----------------------|
| 18.57.010 | Title. |
| 18.57.015 | Findings and purpose. |
| 18.57.030 | Applicability. |

- 18.57.035 Exemptions.
- 18.57.050 Tree protection plan required.
- 18.57.060 Tree density requirement.
- 18.57.070 Tree protection plan review procedure.
- 18.57.080 Tree protection plan review standards.
- 18.57.090 Tree protection during construction.
- 18.57.100 Post-construction replacement, financial guarantee and maintenance requirements.
- 18.57.110 Penalties, enforcement.

18.57.010**Title.**

This chapter shall be known and may be cited as the Kenmore tree management and protection code. [Ord. 04-0214 § 2.]

18.57.015**Findings and purpose.**

A. Reducing soil *erosion* and water pollution in the *city's streams* and creeks by providing wind breaks, slowing the surface movement of water, reducing the amount of stormwater runoff, and stabilizing soil with their roots and fallen leaves;

B. Improving air quality by removing pollutant gases and airborne particles;

C. Positively affecting energy and water conservation by providing shade, lowering temperatures, and reducing net evaporation rates;

D. Reducing noise pollution by absorbing and deadening excessive and/or unwanted noise and by screening the source of the noise from view; and

E. Providing a wide variety of habitats and ecosystems for birds, mammals, and other wildlife;

F. Accordingly, the purpose of this chapter is to establish a process and standards to:

1. Increase the livability of an area by helping to screen people and *buildings* from wind and inclement weather;

2. Create a special sense of identity, a sense of community and civic pride, and a memorable place to live and work;

3. Preserve and enhance the *city's* physical and aesthetic character by preventing untimely and indiscriminate removal or destruction of *trees*;

4. Promote *site* planning, construction practices, and horticultural practices that are consistent with the *reasonable use* of property;

5. Implement the goals and objectives of the *city's* comprehensive plan; and

6. Implement the goals and objectives of the *city's* parks and recreation master plan. [Ord. 04-0214 § 2.]

18.57.030**Applicability.**

A. No individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, shall directly or indirectly remove or destroy any *tree* as defined in this title within the *city*, without first obtaining a clearing permit as provided in KMC Title 15.

B. Unless otherwise exempted in KMC 18.57.035, any *site* subject to *development*, including the division of a parcel of land into two or more parcels, within the *city*, shall comply with the requirements of this chapter.

C. Approval of a tree protection plan pursuant to the provisions of this chapter shall not discharge the obligation of the *applicant* to otherwise comply with the applicable provisions of this chapter.

D. When any provision of any other chapter of the Kenmore Municipal Code conflicts with this chapter or when the provisions of this chapter are in conflict, that provision which provides more protection for individual *trees* and *groves* of *trees* shall apply unless specifically provided otherwise in this chapter or unless such provision conflicts with federal or state laws or regulations. [Ord. 04-0214 § 2.]

18.57.035**Exemptions.**

A. The following land *uses* are exempt from the provisions of this chapter. However, compliance with other applicable provisions of the Kenmore Municipal Code including but not limited to then-current *critical area* regulations per Chapter 18.55 KMC and then-current clearing regulations per Chapter 15.25 KMC is still required:

1. Agriculture, meaning the use of the land for the primary purpose of deriving income from growing plants or *trees* on land including, but not limited to, land used principally for fruit or timber production, but not including land used principally for another *use* and only incidentally for growing *trees* or plants for income.

2. *Commercial Nursery or Tree Farm*. But only those *trees* which are planted and growing on the premises of a licensed retailer or wholesaler for sale to the general public. Other *trees* on such premises shall remain subject to this chapter.

3. Residential *Development*.

a. All existing *lots* on which are to be situated new *single detached dwelling units* in residential zones based on tree removal limits established by clearing requirements.

b. All existing *lots* on which are situated existing detached *dwelling units* in residential zones based on tree removal limits established by clearing requirements.

4. Downtown Commercial and Downtown Residential zones. All *development* occurring within core areas designated as downtown commercial and downtown residential zones. [Ord. 09-0295 § 2; Ord. 04-0214 § 2.]

18.57.050**Tree protection plan required.**

A. Requirement Established. Except for the exemptions enumerated in this chapter, no individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, shall remove, transplant, or destroy, or cause to be removed, transplanted, or destroyed, on any land in the *city*, any *tree* as defined in this chapter, without first obtaining the *city manager's* approval of a tree protection plan and receiving a clearing permit from the *city*. For *sites* proposed for land *development*, including the division of a parcel of land into two or more parcels, having *trees* below the minimum tree density, even though no *trees* are proposed to be removed, a tree protection plan is required to bring the *site* up to the minimum tree density standard herein established.

B. Submittal of Tree Protection Plan. Where the *site* proposed for *development* requires site or plat or short plat review, the tree protection plan shall be submitted concurrent with a site plan or plat or short plat application.

C. Tree Protection Plan Requirements. Attached to the *applicant* information and site plan information required for the clearing permit applications, the *applicant* shall include the following tree protection plan information:

1. *Tree Survey*. For all *development proposals* a *tree* survey, drawn to scale by a land surveyor licensed in Washington State, identifying the exact location and conditions of existing *trees* as defined in this title and containing the following information:

a. Common and botanical name of each *tree*.

b. *Trees* proposed to remain and to be removed.

c. *Groves* with indication of predominant species, number of *trees* and size of d.b.h.

d. Any off-site *tree* with a root protection zone which could be adversely affected by the proposed activity.

e. The location and dimensions of established and proposed perimeter *landscaping*, natural *vegetation* easements, and open space areas for public, *private*, or community use.

f. *Net buildable areas*.

g. *Critical areas* and their *buffers*.

h. Stormwater tracts.

i. Limits of construction line.

j. North arrow, scale, and date of survey.

2. A statement describing how *trees* intended to remain will be identified, marked, and protected before the start of and during *development* as further described in KMC 18.57.090.

3. A statement that describes replacement tree quality as conforming to the American Standards for Nursery Stock (ANSI).

4. Proposed Tree Protection Plan. The permit *applicant* shall have a *qualified tree protection professional* prepare a tree protection plan. The tree protection plan shall be drawn to scale using the *tree* survey as a base and containing the following information:

- a. The exact location and conditions of protected *trees*.
 - b. The exact location, common name, botanical name, and *caliper* of each *tree* species to be planted.
 - c. The *site* minimum tree density calculation indicating the total number, size, and species of existing *trees* to be preserved and the replacement *trees* to be planted as described in KMC 18.57.060.
 - d. The *site* replacement tree calculation as described in KMC 18.57.060 with an explanation including the number, *caliper*, and species.
 - e. The location, materials, dimensions, and layout of the protective barriers.
5. Submit a Landscape Bond Quantity Form.

6. Additional Information. Any additional or more detailed information required by the *city manager* to ensure compliance with the provisions of this chapter (i.e., aerial photograph). The *city manager* may waive the requirements for the scaled drawing and other submission data if he finds that the information presented is sufficient to determine the project's compliance with the provisions of this chapter. [Ord. 04-0214 § 2.]

18.57.060

Tree density requirement.

A. Minimum Tree Density Requirement Established. A minimum tree density is required on each *site*. The tree density may consist of existing *trees*, replacement *trees*, or a combination of existing and replacement *trees*. The *site* density of *trees* to be protected on each *site* shall be determined prior to approval of a tree protection plan or clearing permit, by the *city manager*.

B. Tree Density Calculation. The minimum tree density required for each *site* is 30 tree units per acre of *net buildable area*.

1. To calculate the density of *trees* to be protected:
 - a. Obtain the d.b.h. measurement in inches for each protected *tree* within the *net buildable area*.
 - b. Go to Table 18.57.060A and select the tree unit value that corresponds to the d.b.h. for each protected *tree*.
 - c. Add up the tree unit values for all protected *trees* and divide by the total acreage of the *net buildable area*. This value must equal or exceed 30 tree units per acre of *net buildable area*. If the total is less than 30 tree units per acre, more *trees* must be protected or replacement *trees* will be required.
 - d. If replacement *trees* are planted as *groves* within designated tracts, then *applicant* may reduce total tree units required by 10 percent.

Table 18.57.060A Existing Trees to Remain.

(Conversion from diameter (d.b.h.) in inches to tree units for *trees* protected on *site*.)

d.b.h.	Tree Units	d.b.h.	Tree Units
1 – 5	1.0	30	8.2
6 – 10	1.2	31	8.6
11	1.4	32	9.0
12	1.8	33	9.5
13	2.0	34	10.0
14	2.3	35	10.5
15	2.6	36	11.0
16	2.9	37	11.5
17	3.2	38	12.0
18	3.5	39	12.5

d.b.h.	Tree Units	d.b.h.	Tree Units
19	3.8	40	13.0
20	4.2	41	13.5
21	4.6	42	14.0
22	5.0	43	14.5
23	5.4	44	15.0
24	5.8	45	15.5
25	6.2	46	16.0
26	6.6	47	17.0
27	7.0	48	18.0
28	7.4	49	19.0
29	7.8	50	20.0
For every one inch greater than 50 d.b.h., add an additional 2 tree units (i.e., 62 d.b.h. = 44 tree units).			

C. Replacement *Tree* Requirement. If the number of existing *trees* is not enough to meet the minimum of 30 tree units per acre, a sufficient number of replacement *trees* shall be planted to meet the minimum requirement. To determine the total number of replacement *trees* required:

1. Obtain the *caliper* measurement for each replacement *tree*. Replacement *trees* are measured differently than protected *trees*. Instead of measuring d.b.h. as in protected *trees*, replacement *trees* are measured by *caliper* in inches according to industry standards (ANSI). *Caliper* on replacement *trees* is measured six inches above the ground line for four-inch and smaller *trees*, and 12 inches above ground for larger replacement *trees*.

2. Go to Table 18.57.060B and select the tree unit value that corresponds to the *caliper* for each replacement *tree*.

3. Add the replacement tree unit values together to determine how many of that size *tree* will be required to achieve the minimum *site* density. See Table 18.57.060C for an example.

Table 18.57.060B Replacement Trees.
(Conversion from *caliper* inches to tree units for replacement *trees*.)

Deciduous Tree Caliper Inches	Tree Units for Deciduous Trees	Coniferous Tree Height in Feet	Tree Units for Conifers	Tree Units for Native Conifers
1.5"	0.4	4' – 6'	0.5	0.8
2"	0.5	6' – 8'	0.7	1.0
3"	0.6	8' – 10'	1.0	1.5
4"	0.7	11' – 12'	1.5	2.0
5"	0.8			
6"	1.0			
7"	1.2			

Deciduous Tree Caliper Inches	Tree Units for Deciduous Trees	Coniferous Tree Height in Feet	Tree Units for Conifers	Tree Units for Native Conifers
8" +	1.5			

Table 18.57.060C Sample Tree Density Calculation.

The required density factor is calculated below as follows for five acres: five acres x 30 units = 150 tree units required.

Existing density (ED):

Size	Quantity	Total Units	Size	Quantity	Total Units
24"	3	17.4	12"	5	9.0
18"	3	10.5	8"	6	7.2
10"	4	4.8	15"	8	20.8
30"	7	57.4	4"	10	10.0
				Total ED	137.1

Replacement density RD:

Size	Units	Quantity	Total Units
2" <i>Deciduous</i>	0.5	12	6.0
4" <i>Deciduous</i>	0.7	6	4.2
4' – 6' Native Conifer	0.8	5	4.0
		Total RD	14.2

ED + RD =	Site Total Tree Density	>	or	=	Minimum Density Required	
137.1 + 14.2 =	151.3	>			150	Density Satisfied

The sum of the ED and RD must be greater than or equal to the minimum density required. [Ord. 09-0295 § 3; Ord. 04-0214 § 2.]

18.57.070**Tree protection plan review procedure.**

A. *Departmental Review.* The *city manager* shall review the tree protection plan and clearing permit application to determine whether the *applicant* has provided all required information. Completed applications shall be referred to appropriate *city departments* for review. Upon request of either the *applicant* or the *city*, the *city* may conduct field inspections or review meetings. *City departments* involved in the review and/or inspections shall submit their report(s) and recommendation(s) to the *city manager*.

B. *Evaluation for Compliance.* The *city manager* may require an evaluation by a *qualified tree protection professional*, a qualified engineer, landscape architect, soils engineer, testing lab, or other specialist at any time during the tree protection plan review process or tree removal inspection as necessary to ensure compliance with the provisions of this chapter and/or the terms of the clearing permit. Individual *applicants* will be responsible for payment to the *city* of the actual cost to the *city* of this evaluation. The actual costs of any such evaluation shall be paid to the *city* within 30 days of receipt of the *city's* invoice.

C. *Financial Guarantees*. For all projects required to have a tree protection plan, *financial guarantees* shall be required consistent with the provisions of KMC 21.20.070; provided, however, that to the extent that the *financial guarantee* requirements of KMC 18.57.100 are more protective of tree preservation, performance and maintenance, then the more protective requirements shall prevail. [Ord. 09-0295 § 4; Ord. 04-0214 § 2.]

18.57.080

Tree protection plan review standards.

The following standards shall govern the approval of a tree protection plan and the granting or denial of an application for clearing permit:

A. Design. *Development* shall be designed, located, and conducted so as to minimize the loss of healthy *groves* and protected *trees* as identified by a *qualified tree protection professional*, degradation of wildlife habitat as identified through environmental review, and the potential for *erosion* and slope failure.

B. *Tree Protection Priority*. In designing a development project and in meeting the required minimum tree density, the *applicant* shall protect *trees* within the *net buildable area* as described in KMC 18.57.060(B)(1), in the following order of priority. *Trees* to be preserved and protected must be healthy and vigorous, *wind-firm*, and not in conflict with utilities.

1. *Groves*.
2. Individual *trees* which provide wildlife habitat as identified through environmental review.
3. Individual *trees* and *groves* which occur within required *setbacks*.
4. *Trees* sheltering interior *trees* or *trees* on adjacent property from strong winds that could otherwise cause them to blow down.
5. *Trees* which provide a buffer and separate incompatible *uses* or reduce sound and wind levels.

C. Replacement *Tree Planting Conditions*. Replacement *trees* should be planted in areas with soil, climate, exposure, and moisture conditions appropriate to the replacement *tree species'* growing requirements as determined by a *qualified tree protection professional*, licensed landscape architect, or certified nurseryman.

D. Replacement *Tree Planting Location Priority*. On *sites* where the number of existing *trees* falls below the minimum density requirements, then replacement *tree* planting shall be required. The *applicant's* proposed location of transplanted or replacement *trees* shall be subject to review by a *qualified tree protection professional*, licensed landscape architect, or certified nurseryman, and *city* approval as part of the tree protection plan. Replacement *trees* should be planted according to the following priority:

1. On Site.
 - a. Designated Tracts. *Trees* located in separate deeded *tree* tracts specifically set aside for the preservation and planting of *trees* and/or the required recreation open space area if *trees* do not interfere with recreation activities.
 - b. Perimeter *Landscaping*. In which case, replacement *trees* shall not count toward and shall be in addition to perimeter landscape requirements.
 - c. *Landscaping*. This may include entrance landscaping, traffic islands, and other common open space areas. *Trees* located in a public right-of-way may be credited as replacement *trees* only if *street trees* are not a requirement.
2. Off Site.

In cases where an *applicant* believes that lot size prevents installation of the required number of *trees*, the *applicant* may propose to the *city* payment of a fee in lieu for installation of *trees* in a public *park* or other *public space*. The *city manager* shall review and make the final decision on the *applicant's* proposal, based on a recommendation from a *qualified tree protection professional*.

E. Replacement Conifer Tree Types. Replacement *trees* shall be of a similar type of genus to the conifer *trees* that are removed, i.e., a Western Red Cedar (*Thuja plicata*) may be replaced with a *tree* in the genus *Thuja*, such as an American Arborvitae (*Thuja occidentalis*). [Ord. 09-0295 § 5; Ord. 04-0214 § 2.]

18.57.090

Tree protection during construction.

Prior to initiating tree removal and any *clearing* and *grading* on the *site*, *trees* to be protected and preserved shall be protected from potentially damaging activities as follows unless otherwise approved by the *city*.

A. *Critical Root Zone (CRZ)*. The *CRZ* of individual *trees*, *groves*, or otherwise designated protected tree areas shall include no less than the area of a circle with a radius that extends one foot out from the *tree* for every inch of trunk

d.b.h., or the area of a circle with radius extending from a *tree's* trunk to a point no less than the end of a *tree's* longest branch, whichever is greater (see Figure 18.57.090A).

B. Tree Protection Fence (TPF). Before *development*, the *applicant*:

1. Shall place three inches of composted woodchips over the *CRZ* of all retained *trees* to retain moisture, increase organic matter, and visually establish the *CRZ*.

2. Shall erect and maintain readily visible protective tree fencing a minimum of three feet beyond the outer edge of the *CRZ* for all individual *trees*, *groves*, or other designated protected tree areas.

a. Fencing shall completely surround the required tree protection area. The *city manager* may allow adjustments to placement of the TPF based on an evaluation of the *tree*, soils, and proposed disturbance.

b. Fencing shall be a minimum of four feet high and may be higher if needed to ensure clear visual delineation. Chain-link *fence* or orange plastic *fence* fastened to steel stakes/posts driven securely into the ground shall be required in order to discourage easy movement.

c. Any deviation from the tree fencing methods listed above must be authorized in writing by the *city manager* in advance.

3. Shall keep the protective fencing in place until the *city* authorizes the removal or issues a final certificate of occupancy, whichever occurs first.

4. Shall ensure that any landscaping done within the root protection zone subsequent to the removal of the *fence* shall not disturb existing *trees* including roots within the *CRZ*.

C. Placing Materials Near *Tree*. During *development*, no individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, may conduct any activity within the TPF of any *tree* designated to remain, except as specified in this section.

D. Attachments to *Trees*. During *development*, no individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, shall attach any object to any *tree* designated for protection.

E. Grade.

1. The grade shall not be filled or cut within the *CRZ* of any *tree* designated to remain without prior review by a *qualified tree protection professional* and advance, written approval from the *city manager*.

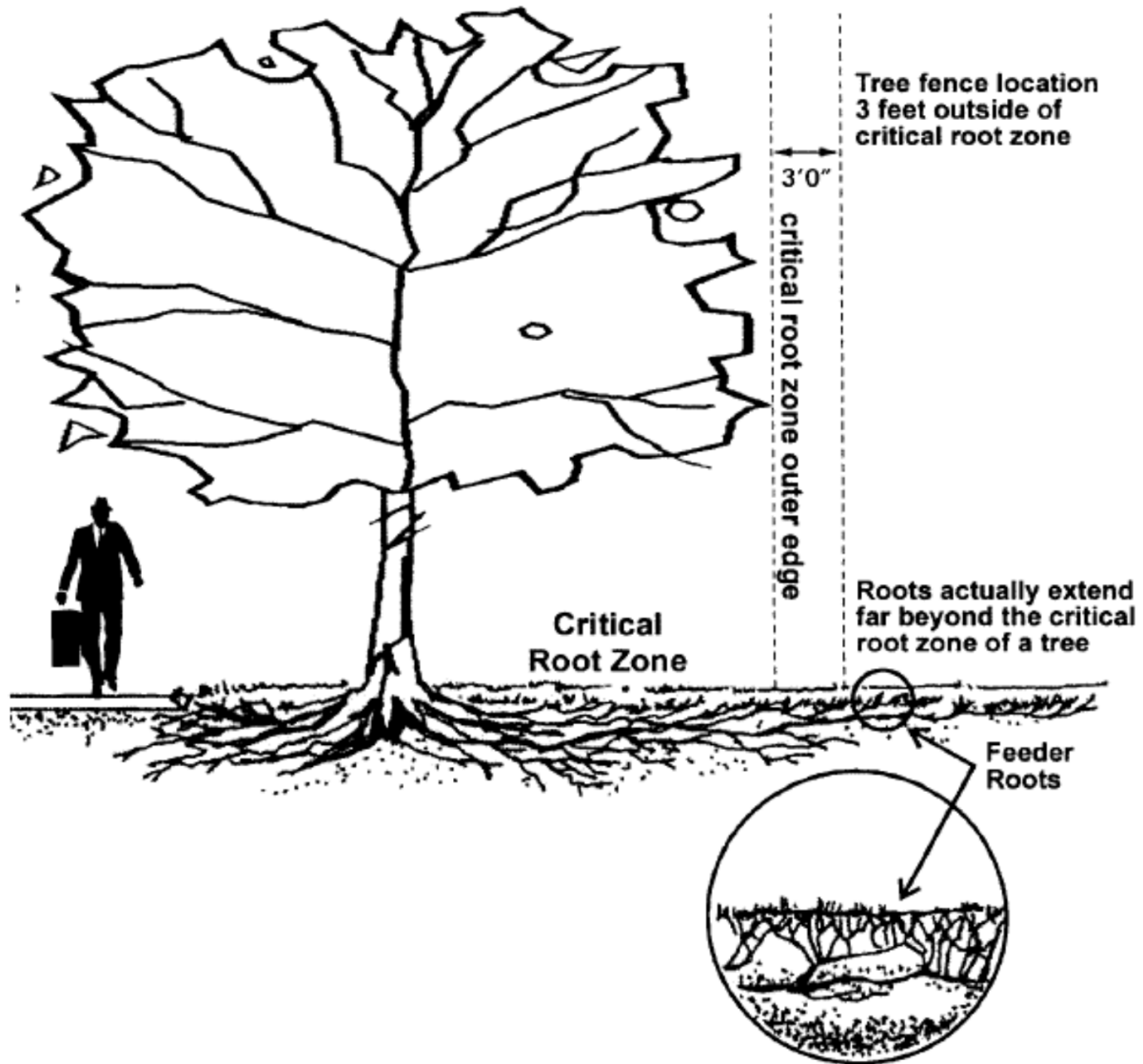
2. The *applicant* shall not install an *impervious surface* within the protective barrier of any *tree* designated to remain without the advance, written authorization of the *city manager*.

3. To the greatest extent practical, utility trenches shall be located outside of the root protection zone of *trees* to be retained. Boring or tunneling under the *CRZ* may be considered an alternative, but shall require the advance, written approval of the *city manager*.

4. *Trees* and other *vegetation* to be retained shall be protected from *erosion* and sedimentation.

F. Additional Requirements. The *city manager* may require additional tree protection measures which are consistent with accepted urban forestry practices.

Figure 18.57.090A Critical Root Zone.



This section shows a cross-section of the typical root zone for a *deciduous tree*. Eighty-five percent of the *tree's* roots are within the top 18 inches of the soil. Roots typically spread up to two times the height of the *tree* and sometimes more. However, the critical mass of roots is usually found within the *critical root zone*. [Ord. 04-0214 § 2.]

18.57.100**Post-construction replacement, financial guarantee and maintenance requirements.**

A. Replace Damaged, Dead, or Dying *Trees*. Replacement *trees* or *groves* that are damaged or die within a period of three years after planting or transplanting must be replaced in kind at a ratio of one-to-one within six months of the *tree's* death or the date of discovery of the damage. Existing *trees* that are damaged or die within a period of three years after completion of construction activities and as a cause of construction activities as determined by a *qualified tree protection professional* shall be replaced in kind at a ratio of two-to-one within six months of the *tree's* death or date of discovery of the damage.

B. Replacement *Tree* Quality. Replacement *trees* shall conform to the American Standards for Nursery Stock, ANSI.

C. *Tree* Maintenance. All *trees* shall be maintained in accordance with International Society of Arboriculture guidelines and standards.

D. *Financial Guarantee* Required. A *financial guarantee* as defined and regulated under KMC Title 21 shall be required as a mechanism to cover any potential cost associated with replacing dead or dying replacement or existing *trees* required to satisfy tree unit requirements per this section.

1. A *financial guarantee* shall be required for all plans requiring 15 or more tree units.

2. Calculation of the amount of the *financial guarantee* shall be computed based upon equivalent tree replacement value for all replacement and existing *trees* on the property as determined by a *qualified tree protection professional* using the most recent edition of the Guide for Plant Appraisal published by The International Society of Arboriculture, in collaboration with the Council of Tree and Landscape Appraisers. Fair market value shall be posted. Fair market value includes the value of the *tree(s)*, installation, and maintenance until establishment that would be required to compensate for the *trees* that could be lost.

3. The *financial guarantee* period for maintenance shall be three years, plus an additional 60 days.

4. Release of *Financial Guarantee*.

a. Upon successful tree replacement and establishment as determined by the written approval of the *city* and consistent with Chapter 21.15 KMC, the *financial guarantee* required by this section shall be released.

b. The *city*, in its discretion, may release a *financial guarantee* under this section when fee simple title is transferred. The *city* may condition the release of the existing *financial guarantee* upon establishment of a new *financial guarantee* by the new owner in fee simple. [Ord. 09-0295 § 6; Ord. 04-0214 § 2.]

18.57.110**Penalties, enforcement.**

A. Civil Penalty. Any violation of any provision of this chapter constitutes a civil violation under Chapter 1.15 KMC, and is subject to the enforcement procedures of Chapter 1.20 KMC; provided, however, that an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, who removes any *tree* in violation of this chapter shall be assessed the following civil penalty:

An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, removing a *tree* in violation of this chapter shall be assessed a monetary penalty in the amount of \$2,000 per inch in *diameter at breast height* of *tree* removed. For example, if a 20-inch *tree* is removed, then the penalty would be \$40,000.

B. Criminal Penalty. In addition to, or as an alternative to incurring civil liability under this section, an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, who violates any provisions of this chapter shall be guilty of a misdemeanor and subject to the criminal penalties set forth in Chapter 1.15 KMC, and shall be subject to the procedures of the *city's* criminal code, KMC Title 9.

C. Separate Offense. Every individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, violating any provision of this chapter is guilty of a separate offense for each and every day during any portion of which the violation is committed, continued or permitted by any such individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated. [Ord. 09-0295 § 7.]

Chapter 18.60**COMMUNICATION FACILITIES**

Sections:

- 18.60.010 Purpose.
- 18.60.020 Applicability.
- 18.60.030 Exemptions.
- 18.60.050 Minor communication facilities – Review process.
- 18.60.060 Minor communication facilities – Location within street, utility and railroad rights-of-way.
- 18.60.070 Minor communication facilities – Public parks, open spaces and other property owned by the city.
- 18.60.080 Minor communication facilities – Pre-application community meetings.
- 18.60.090 Application requirements for new transmission support structures.
- 18.60.100 Application requirements for new antennas on all existing support structures.
- 18.60.110 Modifications to all communication facilities.
- 18.60.120 Minor communication facilities – Modifications to transmission support structures and alternative transmission support structures.
- 18.60.130 Minor communication facilities – Collocation.
- 18.60.140 Consolidation.
- 18.60.150 Notification requirements.
- 18.60.160 Setback requirements.
- 18.60.170 Color and lighting standards.
- 18.60.180 Minor communication facilities – Development standards for transmission support structures and alternative transmission support structures.
- 18.60.190 Minor communication facilities – Visual compatibility standards.
- 18.60.200 Minor communication facilities – Additional standards to reduce degree of visual impact.
- 18.60.210 Minor communication facilities – Antenna development standards.
- 18.60.220 NIER exposure standards.
- 18.60.230 Fencing and NIER warning signs.
- 18.60.240 Shock and burn standard.
- 18.60.250 Landscaping requirements.
- 18.60.260 Testing of wireless telecommunications facilities required – Radio frequency radiation.
- 18.60.270 Interference.
- 18.60.280 NIER enforcement.
- 18.60.290 Minor communication facilities – Time limits and establishment period.
- 18.60.300 Minor communication facilities – Cessation of use.
- 18.60.310 Minor communication facilities – Criteria for determining technical feasibility.
- 18.60.320 Third party review.

18.60.010**Purpose.**

The purpose of this chapter is to establish guidelines for the siting of *transmission support structures* and *antennas*. The goals of this chapter are to:

- A. Provide for the appropriate location and *development* of wireless telecommunications facilities in locations that promote the public safety and general welfare;
- B. Encourage the location of *transmission support structures* in nonresidential areas and minimize the total number of *transmission support structures* throughout the community;
- C. Strongly encourage the joint use of new and existing *transmission support structure sites*;
- D. Promote telecommunications facility safety through proper engineering and siting;
- E. Accommodate in reasonable time requests for wireless telecommunications facility *development*;
- F. Support all decisions made regarding siting of wireless telecommunications facilities with substantial evidence contained in a written record;

G. Encourage users of *transmission support structures* and *antennas* to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

H. Encourage users of *transmission support structures* and *antennas* to configure them in a way that minimizes the adverse visual impact of the *transmission support structures* and *antennas*;

I. Enhance the ability of the providers of wireless telecommunications services to provide such services to the community quickly, effectively and efficiently; and

J. Ensure compliance with Federal Communications Commission rules and applicable law regarding *nonionizing electromagnetic radiation (NIER)*. [Ord. 05-0228 § 4.]

18.60.020

Applicability.

The standards and process requirements of this chapter supersede all other review process, *setback* or *landscaping* requirements of this title. All *communication facilities* which are not exempt pursuant to KMC 18.60.030 shall comply with the provisions of this chapter as follows:

A. New *communication facilities*, with the exception of *consolidations*, shall comply with the provisions of KMC 18.60.030, 18.60.090 through 18.60.100, 18.60.150, 18.60.170 and 18.60.220 through 18.60.280; new *minor communication facilities* shall also comply with applicable provisions of this chapter, and, in case of conflict, the provisions of this chapter shall apply;

B. Modified *communication facilities*, with the exception of *consolidations*, shall comply with standards as provided in KMC 18.60.030, 18.60.140 through 18.60.170, and 18.60.220 and 18.60.280; *modifications to minor communication facilities* shall also comply with the applicable provisions of this chapter, and, in case of conflict, the provisions of this chapter shall apply;

C. *Consolidations* shall comply with standards as provided in KMC 18.60.030, 18.60.090 through 18.60.100, 18.60.150, 18.60.170, and 18.60.220 through 18.60.280; *consolidations to minor communication facilities* shall also comply with the applicable provisions of this chapter, and, in the case of conflict, the provisions of this chapter shall apply. [Ord. 05-0228 § 4.]

18.60.030

Exemptions.

The following are exempt from the provisions of this chapter and shall be permitted in all zones:

A. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the Federal Communications Commission (FCC);

B. Machines and equipment that are designed and marketed as consumer products, such as microwave ovens and remote control toys;

C. The storage, shipment or display for sale of *transmission equipment*;

D. Radar systems for military and civilian communication and navigation;

E. Hand-held, mobile, marine and portable radio transmitters and/or receivers;

F. Two-way radio utilized for temporary or *emergency* services communications;

G. Licensed amateur (ham) radio stations and citizen band stations;

H. *Earth station* downlink using satellite dish *antennas* with a diameter of less than two meters or 6.6 feet; provided, that stations in excess of one dish *antenna* are subject to *conditional use permits*;

I. Any *antenna* which is treated as exempt under 47 Code of Federal Regulations (C.F.R.) Section 1.4000(a)(1), as it may be amended from time to time;

J. Any maintenance, reconstruction, repair or replacement of a conforming or nonconforming *communication facility*, *transmission equipment*, *transmission support structure* or *transmitter building*; provided, that the *transmission equipment* does not result in noncompliance with KMC 18.60.220 and 18.60.240;

K. In the event a building permit is required for any *emergency* maintenance, reconstruction, repair or replacement, filing of the building permit application shall not be required until 30 days after the completion of such *emergency* activities. In the event a building permit is required for non-emergency maintenance, reconstruction, repair or replacement, filing of the building permit application shall be required prior to the commencement of such non-emergency activities;

L. Change-out of equipment that is located on the ground, on an existing *transmission support structure* or on an *alternative transmission support structure* that is replaced in the same location and is the same size or smaller. [Ord. 05-0228 § 4.]

18.60.050**Minor communication facilities – Review process.**

Minor communication facilities shall be reviewed as follows:

Minor Communication Facilities – Review Process

Zone District(s)	Antenna	Transmission Support Structure
RB, NB, DC	P	C
R1 – R6, P	P ² , C	C ³ , S
R12 – R48, DR	P	C ³ , S

P – Permitted Use – reviewed through Type 2 process outlined in KMC 19.25.020.

C – Conditional Use – reviewed through Type 2 process outlined in KMC 19.25.020.

S – Special Use – reviewed through Type 3 process outlined in KMC 19.25.020.

¹ Reserved.

² Only if the proposal is for a location which is in improved right-of-way or located on a parcel abutting 61st Avenue NE, Simonds Rd NE, Juanita Drive, NE 170th Street or State Route 522; or located on an *alternative transmission support structure* or *transmission support structure* with existing telecommunication facilities per KMC 18.60.270.

³ Only if the proposal is for a location which is in improved right-of-way or located on a parcel abutting 61st Avenue NE, Simonds Rd NE, Juanita Drive, NE 170th Street or State Route 522.

[Ord. 08-0293 § 2; Ord. 05-0228 § 4.]

18.60.060**Minor communication facilities – Location within street, utility and railroad rights-of-way.**

A. The mounting of *antennas* upon existing *structures*, such as power poles, located within publicly or privately maintained *street*, utility and railroad rights-of-way is permitted. The process by which these facilities are approved is outlined in KMC 18.60.050, by first determining the most restrictive zone that abuts the right-of-way. However, this authorization shall not be construed as granting a right to use any property without the permission of the property owner. If an existing *structure* within a *street*, utility, or railroad right-of-way cannot accommodate an *antenna* due to structural deficiency, the *structure* may be replaced with a new *structure* that will serve the original purpose. The replacement *structure* must also remain the same diameter of the existing *structure*, unless the *applicant* can provide information stating that it is infeasible to locate all transmission and power cables and any other conduit within the pole without increasing the diameter and will not exceed the height and *setback* requirements of KMC 18.60.180.

Exception: *Structures* that operate solely as light poles may be replaced; however, they are not to exceed the height of the existing *structure*. The replacement *structure* must also remain the same diameter of the existing *structure*, unless the *applicant* can provide information stating that it is infeasible to locate all transmission and power cables and any other conduit within the pole without increasing the diameter. Replacement *structures* must meet the criteria in

KMC 18.60.170, 18.60.190 and 18.60.200. In addition, if poles were originally installed as a decorative light standard, then the pole must match the other existing poles within the *development* in color, form and any decorative elements.

B. *Minor communication facilities* within *street*, utility and railroad rights-of-way that propose the construction of a separate *structure* used solely for *antenna* shall be subject to the zoning provisions applicable to the property abutting the portion of right-of-way where the *structure* is proposed except that the *setbacks* specified in the zoning code shall not apply. *Setbacks* shall be those specified in the *street* design standards. In cases where the abutting property on either side of the right-of-way has different zoning, the more restrictive zoning provisions shall apply.

C. The placement of *antennas* on existing or replacement *structures* within *street*, utility or railroad rights-of-way is the preferred alternative in residential neighborhoods and the feasibility of such placement shall be considered by the *city* whenever evaluating a proposal for a new *transmission support structure*, except for a new *structure* that is proposed to collocate *antennas* for two or more separate service providers. [Ord. 05-0228 § 4.]

18.60.070

Minor communication facilities – Public parks, open spaces and other property owned by the city.

Within public *parks* and open spaces owned by the *city*, the placement of *antennas* on existing *structures*, such as power poles, light poles for *streets* and parking lots, light standards for recreational fields and existing *transmission support structures*, is the preferred option. As property owner, the *city*, separate from any permitting issues related to the project, has complete control over the placement of a facility in a *park* or on any other *city*-owned property. If an existing *structure* within a *city*-owned *park* or open space cannot accommodate an *antenna* due to structural deficiency, or does not have the height required to provide adequate signal coverage, the *structure* may be replaced with a new *structure*; provided, that the new *structure* will serve the original purpose and not exceed the original height. Any height increase which exceeds the original height of the *structure* will require a new application for a use permit per KMC 18.60.050. The construction of a new freestanding tower within public *parks* and open spaces owned by the *city* shall be subject to the requirements of this chapter. [Ord. 05-0228 § 4.]

18.60.080

Minor communication facilities – Pre-application community meetings.

When a new *transmission support structure* is proposed in any zone within the *city*, a community meeting shall be convened by the *applicant* prior to submittal of an application.

A. At least two weeks in advance, notice of the meeting shall be provided by the *applicant* as follows:

1. Published in the local paper and mailed to the *department* and to the *city* council; and
2. Mailed notice shall be provided to all property owners within 500 feet (or at least 20 of the nearest property owners, whichever is greater) as required by KMC 18.60.150 of any potential *sites*, identified by the *applicant* for possible *development*, to be discussed at the community meeting. The mailed notice shall at a minimum contain a brief description and purpose of the project, the estimated height, approximate location noted on an assessor map with address and parcel number, photo or sketch of proposed facility, a statement that alternative *sites* proposed by citizens can be presented at the meeting which will be considered by the *applicant*, a contact name and telephone number to obtain additional information, and such other information as the *city* shall reasonably deem necessary and require of the *applicant* in writing. Because the purpose of the community meeting is to promote early discussion, *applicants* are encouraged to note any changes to the conceptual information presented in the mailed notice when they submit applications.

B. At the community meeting, at which at least one employee of the *department*, assigned by the *city manager*, shall be in attendance, the *applicant* shall provide information relative to existing *transmission support structures* and other nonresidential *structures*, such as water towers and electrical transmission lines, within one-quarter mile of potential *sites*, and shall discuss reasons why those existing *structures* are unfeasible. Furthermore, any alternative *sites* within one-quarter mile, identified by community members and provided to the *applicant* in writing at least five days in advance of the meeting, shall be evaluated by the *applicant* to the extent possible given the timeframe, and discussed at the meeting. A listing of the *sites*, identified in writing and provided to the *applicant* at or before the community meetings, shall be submitted to the *department* with the proposed application. *Applicants* shall also provide a list of meeting attendees and those receiving mailed notice and a record of the published meeting notice at the time of application submittal. [Ord. 05-0228 § 4.]

18.60.090**Application requirements for new transmission support structures.**

- A. In addition to any required site plan, a permit application for any *communication facility* shall also include:
1. A site plan which shows existing and proposed *transmission support structures*; guy wire anchors; warning signs; fencing and access restrictions;
 2. A report by a registered professional civil or structural engineer demonstrating compliance with applicable structural standards Chapter 15.25 KMC, and describing the general structural capacity of any proposed *transmission support structure(s)*, including:
 - a. The number and type of *antennas* that can be accommodated; and
 - b. The basis for the calculation of capacity;
 3. A report by a registered professional engineer that includes the following:
 - a. A description of any proposed *transmission support structure(s)*, including height above grade, materials, color and lighting; and
 - b. Statement related to interference and exposure as required by KMC 18.60.220 and 18.60.270.
 4. A completed "Checklist to Determine Whether a Facility is *Categorically Excluded*" which will be provided by the city.
- B. In addition to any required site plan and the information listed in subsection (A) of this section, a permit application for any *major communication facility* or any *minor communication facility* which is subject to the *special use permit* procedure shall also include:
1. The name and address of the operator(s) of proposed and existing *antennas* on the site;
 2. The height of any proposed *antennas*;
 3. A statement from a registered professional electrical engineer accredited by the state of Washington who holds a federal communications general radio telephone operator license which includes:
 - a. The calculated *NIER* levels attributable to the proposed *antennas* at points along the property line and other areas off-site which are higher than the property line points, as well as calculated power density (*NIER* levels) in areas that are expected to be unfenced on-site;
 - b. For a *major communication facility*, if there is another *major communication facility* within one mile of the site of the proposed facility, the level of *NIER* at the points identified in subsection (B)(3)(a) of this section as measured within 30 days prior to application; and
 - c. For a *minor communication facility*, if there is an existing *major communication facility* within one-half mile of the site of the proposed facility, the level of *NIER* at the points identified in subsection (B)(3)(a) of this section as measured within 30 days prior to the application.
 - C. Each *applicant* for a building permit if required by Chapter 15.20 KMC for construction of a *minor communication facility* shall post cash, an irrevocable bond, or an irrevocable letter of credit. The amount required must be computed in the following manner: 20 percent of the cost of construction for the proposed facility; provided, that if the *applicant* can demonstrate that the cost of removal of those facilities is less than this amount, the *applicant* need only provide a bond in the amount of the cost of removal. This bond will remain in effect throughout the operation and use of the facility as security for removal of the *minor communication facility* or any part thereof. [Ord. 05-0228 § 4.]

18.60.100**Application requirements for new antennas on all existing support structures.**

- A permit application for *antennas* to be located on any existing *structures* shall include:
- A. A site plan which shows the existing *transmission support structure* or *alternative transmission support structure*; guy wire anchors; warning signs; landscaping; fencing and access restrictions.
 - B. A description of any proposed *transmission support structure* or *alternative transmission support structure*, including height above grade, materials, color and lighting.
 - C. A letter from the owner of the *structure* for which the *antennas* are proposed to be located on, giving permission for the proposal to be processed.
 - D. A report by a registered professional engineer that includes a statement relating to interference and exposure as required by KMC 18.60.220 and 18.60.270.
 - E. A completed "Checklist to Determine Whether a Facility is *Categorically Excluded*" which will be provided by the city. [Ord. 05-0228 § 4.]

18.60.110**Modifications to all communication facilities.**

A. Cumulative *modifications* of conforming or nonconforming *communication facilities, transmission support structures, alternative transmission support structures or transmission equipment* which do not increase the overall height of the *transmission support structure or transmission equipment* and which does not cause an increase in *effective radiated power or antenna* location shall be allowed provided:

1. A *nonconformance* with respect to the height of the *transmission support structure or alternative transmission support structure* shall not be created or increased;
2. Existing perimeter *vegetation* or landscaping shall not be reduced;
3. The *modification* results in compliance with KMC 18.60.220 and 18.60.240. The *applicant* shall provide the city a detailed certification of compliance with these provisions which has been prepared by a licensed professional engineer; and
4. For *minor communication facilities*, the allowances for increased height established by this chapter, including without limitation KMC 18.60.120, shall be complied with.

B. Except for *consolidations* allowed by KMC 18.60.140, *modifications* which increase the overall height of the *transmission support structure or transmission equipment* shall be subject to the following provisions:

1. Applications for such *transmission support structures* shall be reviewed pursuant to the applicable process specified in this chapter; and
2. Such *transmission support structures* shall comply with the provisions of KMC 18.60.030, 18.60.090 through 18.60.100, 18.60.150, 18.60.170, and 18.60.220 through 18.60.270. [Ord. 05-0228 § 4.]

18.60.120**Minor communication facilities – Modifications to transmission support structures and alternative transmission support structures.**

A. *Modifications to transmission support structures and alternative transmission support structures* are permitted through the Type 2 process outlined in KMC 19.25.020 when the *modification(s)* is necessary to accommodate the actual collocation of the *antenna* of other service providers, or to accommodate the current provider's *antenna* required to utilize new technology, such as digital transmissions, and the *transmission support structure* including the proposed *modification* does not increase the height of the existing *transmission support structure* or modify any of the original conditions of approval.

B. *Modifications* to the height or conditions of approval of existing transmission support structures are permitted through the *transmission support structure* process outlined in KMC 18.60.050.

C. *Modifications* to the height or conditions of approval of existing alternative *transmission support structures* are permitted through the *antenna* process outlined in KMC 18.60.050.

D. *Modifications* to existing legal nonconforming *transmission support structures and alternative transmission support structures* shall be subject to the applicable procedure set forth in KMC 18.60.050 may not increase the height of the *structure* more than what is permitted in KMC 18.60.180. [Ord. 05-0228 § 4.]

18.60.130**Minor communication facilities – Collocation.**

A. Upon application for a permit for a new *transmission support structure or antenna*, the *applicant* shall provide a map showing all existing *transmission support structures* or other suitable nonresidential *structures* located within one-quarter mile of the proposed *structure* with consideration given to engineering and structural requirements. No new *transmission support structure* shall be permitted if an existing *structure* suitable for attachment of an *antenna* or collocation is located within one-quarter mile, unless the *applicant* demonstrates that the existing *structure* or a new *structure* complying with KMC 18.60.120:

1. Would be physically or technologically unfeasible pursuant to KMC 18.60.310; or
2. Is not made available for sale or lease by the owner; or
3. Is not made available at a market rate cost; or
4. Would result in conflicts with Federal Aviation Administration height limitations; or
5. Cannot be collocated within an existing facility due to interference with a third carrier.

B. The burden of proof shall be on the *applicant* to show that a suitable existing, modified or replacement *structure* for mounting of *antenna* or collocation cannot be reasonably or economically used in accordance with these criteria.

C. Prior to the receipt of a building permit to construct a new *transmission support structure*, the *applicant* shall file a letter with the *department* agreeing to allow collocation on the *transmission support structure*. The agreement shall commit the *applicant* to provide, either at a market rate cost or at another cost basis agreeable to the affected parties, the opportunity to collocate the *antennas* of other service providers on the *applicant's* proposed *transmission support structure* to the extent that such collocation is technically feasible for the affected parties.

D. All new or modified *transmission support structures* shall be constructed in a manner that would provide sufficient structural strength to allow the collocation of additional *antennas* from other service providers at the standard 10-foot separation.

E. Applications to collocate new *minor communications facilities* on existing *transmission support structures* and/or *alternative transmission support structures* with no increase in height shall comply with all applicable provisions of KMC Title 19 and be processed as a Type 2 permit. [Ord. 05-0228 § 4.]

18.60.140

Consolidation.

Consolidation of two or more existing *transmission support structures* may be permitted subject to the following:

A. If the consolidated *transmission support structure* cannot meet the requirements of KMC 18.60.160, it shall be located on the portion of the parcel on which it is situated which, giving consideration to the following, provides the optimum practical setback from adjacent properties as determined by the *city manager*:

1. Topography and dimensions of the *site*;
2. (In the case of a *consolidation*) to any existing *structures* to be retained;
3. (In the case of a *guyed transmission support structure*) to guy anchor placement necessary to assure structural integrity of the consolidated transmission tower; and
4. Consolidated *transmission support structures* shall be set back from abutting residential property as required in KMC 18.60.180;

B. If a *consolidation* involves the removal of *transmission support structures* from two or more different *sites* and if a consolidated *transmission support structure* is to be erected on one of those *sites*, it shall be erected on the *site* which provides for the greatest compliance with the standards of this chapter;

C. All existing *transmission equipment* on the *site* of a *communication facility* which does not comply with the provisions of this chapter shall be relocated to the consolidated *transmission support structure* before the relocation of *transmission equipment* from a nonexempt off-site, conforming *communication facility* is permitted;

D. The *consolidation* shall not exceed *NIER* and electrical current level limits specified in KMC 18.60.220 and 18.60.240;

E. Any *transmission support structure* to be removed as part of a *consolidation* shall be removed within 12 months of relocation of the transmitting equipment;

F. *Consolidation* shall result in a net reduction in the number of *transmission support structures*; and

G. Consolidated facilities shall require a *conditional use permit*, unless a new *transmission support structure* in the same location would require a *special use permit*, in which case consolidated facilities shall require a *special use permit*. [Ord. 05-0228 § 4.]

18.60.150

Notification requirements.

An *applicant* shall comply with all requirements for notification of a permit application set out in Title 19 KMC. [Ord. 05-0228 § 4.]

18.60.160

Setback requirements.

Except as outlined for *modifications* and *consolidations* pursuant to KMC 18.60.110 and 18.60.120 or when *setbacks* are increased to ensure compliance with *NIER* exposure limits, communication facilities shall comply with the following *setbacks*:

A. *Transmission support structures*, for *major communication facilities* which do not exceed the height limit of the zone in which they are located, shall be set back from the property line as provided for *minor communications facilities* in KMC 18.60.180;

B. *Transmission support structures*, for *major communication facilities*, which exceed the height limit of the zone in which they are located, and which are located in zones other than NB, DC, DR, or RB, shall be set back from property lines as set forth in KMC 18.60.180;

C. *Transmission support structures* for *minor communication facilities* shall be set back from the property line as provided in KMC 18.60.180;

D. When two or more *communication facilities* share a common boundary, the *setback* from such boundary shall comply with the requirements of the zone in which the facilities are located, unless easements are provided:

1. On the adjoining *sites* which limit *development* to *communication facilities*;
2. Of sufficient depth to provide the *setbacks* required in subsections (A) and (B) of this section;
3. Which provide for the *city* as a third party signatory to the agreement; and

4. *Transmitter buildings* shall be subject to the *setback* requirements of the zone in which they are located. [Ord. 08-0293 § 2; Ord. 05-0228 § 4.]

18.60.170

Color and lighting standards.

Except as specifically required by the Federal Aviation Administration (FAA) or the Federal Communications Commission (FCC), *transmission support structures* and *alternative transmission support structures* and all equipment attached to such *structures* shall:

A. Use nonreflective colors such as gray, blue, brown or green which reduce their visual impacts; provided, wooden poles do not have to be painted.

B. If a replacement pole is proposed then it must match the color of the original pole, unless the use of an alternate color would have less visual impact. For example, if *evergreen* trees surround an existing metal pole, then instead of replacing the pole with a metal or gray pole, the pole may be replaced with a dark green pole.

C. Not be illuminated, except *transmitter buildings* may use lighting for security reasons which is compatible with the surrounding neighborhood.

D. If a replacement *structure* is proposed, the replacement pole must meet the criteria listed in subsection (A) of this section. [Ord. 05-0228 § 4.]

18.60.180

Minor communication facilities – Development standards for transmission support structures and alternative transmission support structures.

A new *transmission support structure* may not exceed the standards of this section.

Minor Communication Facilities – Development Standards

Zone District(s)	Maximum Height ² of Transmission Support Structure or Alternative Transmission Support Structure	Setbacks ¹ for New Transmission Support Structure
RB, DC	100 feet high	Either (a) 50 feet, or (b) a <i>setback</i> of one foot for every one foot in height from any A or R1 – R48 zoned property, whichever provides the greater <i>setback</i> .
NB, R1 – R6, R12 – R48, DR	60 feet high	Either (a) 50 feet, or (b) a <i>setback</i> of one foot for every one foot in height from any R1 – R48 zoned property, whichever provides the greater <i>setback</i> .

¹ *Setbacks* may be modified to achieve additional screening; see KMC 18.60.190(C) or as provided in KMC 18.60.160.

² “Height” shall mean the vertical distance of any support structure as measured from the bottom of the base of the support structure ground level to the highest point of such support structure.

[Ord. 08-0293 § 2; Ord. 05-0228 § 4.]

18.60.190

Minor communication facilities – Visual compatibility standards.

With consideration to engineering and structural requirements, and the coverage patterns the provider is seeking to achieve, *minor communication facilities* shall be subject to the following visual compatibility standards in addition to KMC 18.60.170:

A. When located on *alternative transmission support structures* such as *buildings* or water towers, the placement of the *antenna* on the *structure* should reflect the following order of priority in order to minimize visual impact:

1. When located on a utility pole, *antennas* shall be either fully concealed within the utility pole or camouflaged to appear to be an integrated part of the utility pole. *Antennas* not flush mounted on the side of the utility pole shall be centered on the top of the utility pole to which they are mounted and camouflaged or disguised.

2. A location as close as possible to the center of the *structure*;

3. Along the outer edges or side-mounted; provided, that in this instance, additional means such as screens should be considered and may be required by the *department* on a case-by-case basis;

4. When located on the outer edge or side-mounted, be placed on the portion of the *structure* less likely to be seen from adjacent lands containing, in descending order of priority: existing residences, public *parks* and open spaces, and public roadways; and

5. Transmission and power cables and any other conduit shall be contained within the support structure or *alternative transmission support structure* or located underground.

B. To the extent that there is no conflict with the color and lighting requirements of the Federal Aviation Administration for aircraft safety purposes, *transmission support structures* and *alternative transmission support structures* shall be designed to blend with existing surroundings to the extent feasible. This should be achieved through the use of compatible colors and materials, and alternative site placement to allow the use of topography, existing *vegetation* or other *structures* to screen the proposed *transmission support structure* from adjacent lands containing, in descending order of priority: existing residences, public *parks* and open spaces, and public roadways.

C. The *setback* provisions of KMC 18.60.180 may be waived by the *city manager* or the *hearing examiner* in order to achieve greater levels of screening than that which would be available by using the stated *setback*, during the course of the review process described in KMC 18.60.180. In waiving the requirement, the *department* or *hearing examiner* shall consider the protection of adjacent lands on the basis of the priorities stated in subsections (A) and (B) of this section. [Ord. 05-0228 § 4.]

18.60.200

Minor communication facilities – Additional standards to reduce degree of visual impact.

The *department* shall also consider the following criteria and give substantial consideration to on-site location and *setback* flexibility authorized in KMC 18.60.190(C) when reviewing applications for new *transmission support structures* and determining appropriate levels of *mitigation*:

A. Whether existing *trees* and *vegetation* can be preserved in such a manner that would most effectively screen the proposed *transmission support structure* from residences on adjacent properties;

B. Whether there are any natural land-forms, such as hills or other topographic breaks, that can be utilized to screen the *transmission support structure* from adjacent residences;

C. Whether the *applicant* has utilized a tower design that reduces the silhouette of the portion of the *transmission support structure* extending above the height of surrounding *trees*; and

D. Whether the factors of subsections (B) and (C) of this section can be addressed and the height of the proposed tower be reduced and still provide the level of coverage proposed by the *applicant*. [Ord. 05-0228 § 4.]

18.60.210

Minor communication facilities – Antenna development standards.

A. If *antennas* are located on a *transmission support structure* or utility pole then the *antenna* array shall be flush mounted within six inches of the support structure or pole, or contained in a canister that is a continuation of the diameter of the support structure. If located on a *building*, then the *antenna* array must be flush mounted within 12 inches of the face of the *building* or mechanical equipment screening.

B. *Antennas* shall not extend vertically above the uppermost portion of the *structure* to which they are mounted or attached, as follows:

1. Not more than the height of the *antenna* on the *transmission support structure* or *alternative transmission support structure* or three feet (36 inches), whichever is more restrictive;
 2. Not more than 20 feet on a nonresidential *structure*; and
 3. Not more than 15 feet on a residential *structure*, such as a garage, carport, shed, etc.
- C. *Antennas* must be located at least 33 feet (10 meters) in any one direction from all residential living spaces and schools.
- D. *Antenna modifications* and replacements which meet the requirements of subsection (A) of this section do not require approval from the *city* or a permit; however, testing per KMC 18.60.260 is required. [Ord. 05-0228 § 4.]

18.60.220**NIER exposure standards.**

A. A *communication facility*, by itself or in combination with others, shall not expose the public to *NIER* that exceeds the electric or magnetic field strength, or the power density, for the frequency ranges and durations described in 47 C.F.R. Section 1.1310 or any other applicable federal law or regulation. A statement signed by a licensed professional electrical engineer shall be submitted that states that the proposed communications facilities meet all federal interference rules and regulations.

B. Permit applications for communication facilities shall include a statement, signed by a registered professional electrical engineer licensed in the state of Washington who holds a valid *FCC* General Radiotelephone License, that the proposed communications facilities meet all federal *NIER* rules and regulations. The report must also include the proposed levels of exposure and how they comply with *FCC* guidelines. [Ord. 05-0228 § 4.]

18.60.230**Fencing and NIER warning signs.**

All *communication facility sites* shall comply with all federal guidelines regarding fencing and *NIER* warning signs. [Ord. 05-0228 § 4.]

18.60.240**Shock and burn standard.**

The *communication facility* shall comply with 47 C.F.R. Section 1.1310. [Ord. 05-0228 § 4.]

18.60.250**Landscaping requirements.**

A *communication facility site* shall provide *landscaping* as follows:

A. When the facility is located in:

1. The NB, CB, PSP, RB, DC, or DR zone, the base of any *transmission support structure* or *transmitter building* shall be landscaped with eight feet of Type II *landscaping* as defined by KMC 18.35.040(B).
2. The R, GC, and P zones, the base of any *transmission support structure*, *alternative transmission support structure* or *transmitter building* shall be landscaped with 10 feet of Type I *landscaping* as defined by KMC 18.35.040(A).

B. When a security *fence* is used to prevent access onto a *transmission support structure*, *alternative transmission support structure* or *transmitter building*, any *landscaping* required pursuant to subsection (A) of this section shall be placed outward of such security *fence*.

C. When a security *fence* is used:

1. In the NB or RB zone, wood slats shall be woven into the security *fence* if made of chain-link material.
2. In the R zone, climbing *evergreen* shrubs or vines capable of growing on the *fence* shall supplement any *landscaping* required pursuant to subsection (A) of this section.

D. *Landscaping* shall be planted according to KMC 18.35.110. The *applicant* shall be required to maintain the installed *landscaping* per KMC 18.35.120. A two-year landscape maintenance bond shall be required to be posted at the time of permit issuance and will go into effect when the *landscaping* has been installed to ensure survivability of the plants. The amount of the bond shall be determined by the Kenmore landscaping bond quantity worksheet.

E. Existing *vegetation* may be used and/or supplemented with additional *vegetation* to comply with the requirements of subsection (A) of this section.

F. The *city manager* may waive or modify the provisions for *landscaping* at the base of the *transmission support structure*, *alternative transmission support structure* and/or the *equipment buildings* when:

1. Existing *structures* on the *site* or the screening effects of existing *vegetation* on the *site* or along the *site* perimeter would preclude the ability to view the base of the *transmission support structure*, *alternative transmission support structure* or *equipment building*; or

2. The required *landscaping* is accessible to grazing animals and the animals would be better protected by placement of landscape materials within any proposed fencing or by the use of alternative *landscaping vegetation* that would not be toxic to the animals. [Ord. 08-0293 § 2; Ord. 05-0228 § 4.]

18.60.260

Testing of wireless telecommunications facilities required – Radio frequency radiation.

A. All licensed carriers shall conduct tests necessary to demonstrate compliance with all applicable *FCC* regulations regarding the *radio frequency* emissions of the wireless telecommunication facility. All such tests shall be performed by or under the supervision of *radio frequency* engineer competent to perform such tests and interpret the data gathered.

B. All licensed carriers shall submit a report, certified by a *radio frequency* engineer, setting forth the following:

1. Measurement of existing or ambient *radio frequency* radiation (RFR);

2. Existing RFR plus proposed wireless telecommunication facility: maximum estimate of RFR from the proposed wireless telecommunication facility plus existing ambient RFR;

3. Existing RFR plus proposed wireless telecommunication facility plus cumulative: maximum estimate of RFR from the proposed wireless telecommunication facility plus the maximum estimate of RFR from the total addition of collocated wireless telecommunication facilities, if any, plus the existing ambient RFR; and

4. Certification, signed by a *radio frequency* engineer, stating that the RFR measurements are accurate and meet *FCC* guidelines.

C. Initial field measurements shall be performed prior to placing the wireless telecommunication facility into service and the initial compliance report shall be submitted within 14 days of the wireless telecommunication facility becoming fully operational.

D. Compliance reports shall be required to be submitted to the *city* when a facility is to be modified under *FCC* guidelines or when a *FCC* license renewal application is made.

E. The *city* may retain a technical expert in the field of radio frequency engineering to verify the RFR measurements and certification. The cost of such a technical expert shall be borne by the licensed carrier or *applicant*. [Ord. 05-0228 § 4.]

18.60.270

Interference.

Permit applications for *communication facilities* shall include a statement, signed by a licensed professional electrical engineer, that the proposed *communications facilities* meet all federal interference rules and regulations. [Ord. 05-0228 § 4.]

18.60.280

NIER enforcement.

The *city manager* shall have the authority to take any necessary steps to seek *FCC* enforcement of the relevant standards, or, to the extent consistent with applicable law and *FCC* regulations, to take such other steps as may be appropriate to rectify such a violation. [Ord. 05-0228 § 4.]

18.60.290

Minor communication facilities – Time limits and establishment period.

The building permit shall become null and void if construction of the *transmission support structure* has not begun within one year after the effective date of permit approval or if *antennas* are not installed within 180 days after construction of the *transmission support structure*. Extensions shall be allowed only in accordance with the criteria specified for building permit extensions in KMC Title 15. [Ord. 05-0228 § 4.]

18.60.300**Minor communication facilities – Cessation of use.**

An *antenna* shall be removed from a *transmission support structure* or *alternative transmission support structure* within 180 days after the *antenna* is no longer operational unless the owner of the *antenna* can show to the *city's* satisfaction that the *antenna* is likely to be used again within the next six months. A *transmission support structure* for wireless communication facilities shall be removed within one year of the date the last *antenna* is removed. *Antennas* or *transmission support structures* that are not removed within the time frames described herein may be removed by the *city* or a contractor designated by the *city*, and the owner of the *antenna* or *transmission support structure* shall reimburse the *city* for its costs in removing the *antenna* or *transmission support structure*. The *city* may extend the deadlines listed in this section. Nothing herein prevents a landlord from removing *antennas* of tenants which are in default under the terms of a lease agreement. [Ord. 05-0228 § 4.]

18.60.310**Minor communication facilities – Criteria for determining technical feasibility.**

When an *applicant* is required to demonstrate that an existing, modified or replacement structure is not technically feasible for collocation, the evidence submitted to corroborate that finding may consist of any of the following:

A. No existing structures are located within the geographic area required to meet the *applicant's* proposed area of coverage.

B. Existing structures are not of sufficient structural strength to support the *applicant's* proposed *antenna* and related equipment and the cost of *modification* or replacement of an existing structure to allow collocation would equal or exceed that of the construction of the new structure.

C. Existing structures or structures modified consistent with KMC 18.60.120 would not be of sufficient height required to meet the *applicant's* proposed area of coverage or allow *microwave* connection to other *sites* operated by the *applicant*.

D. The *applicant's* proposed *antenna* would cause interference between the proposed and existing *antenna*, and that even the additional height permitted for collocations pursuant to KMC 18.60.130 would not ensure enough separation to avoid such interference. [Ord. 05-0228 § 4.]

18.60.320**Third party review.**

In certain instances there may be a need for expert review by a third party of the technical data submitted by the personal wireless service provider. The *city* may require such technical review, to be paid for by the *applicant* for the personal wireless service facilities. The selection of the third party expert shall be by mutual agreement between the *applicant* and the *city*, such agreement not to be unreasonably withheld by either party. The third party expert shall have recognized training and qualifications in the field of *radio frequency* engineering.

The expert review is intended to be a site-specific review of technical aspects of the personal *wireless services*, facilities and other matters as described herein, and not a subjective review of the *site* selection. In particular, but without limitation, the expert shall be entitled to provide a recommendation on the height of the proposed facilities relative to the *applicant's* coverage objectives and system design parameters. Such review should address the accuracy and completeness of the technical data, whether the analysis techniques and methodologies are legitimate, the validity of the conclusions and any specific technical issues outlined by the *city* or other interested parties. Based on the results of the third party review, the *city* may require changes to the application for the personal wireless service facilities that comply with the recommendations of the expert. [Ord. 05-0228 § 4.]

Chapter 18.70**ANIMALS**

Sections:

- 18.70.010 Purpose.
- 18.70.020 Animal regulations – Small animals and household pets.
- 18.70.025 Kennels and catteries
- 18.70.030 Animal regulations – Livestock – Purpose.

- 18.70.040 Animal regulations – Livestock – Densities.
- 18.70.060 Animal regulations – Livestock – Management standards.
- 18.70.070 Animal regulations – Livestock – Building requirements.
- 18.70.075 Animal regulations – Livestock - Setbacks for buildings and manure storage areas.
- 18.70.080 Animal regulations – Livestock – Education and enforcement.
- 18.70.090 Nonconformances.

18.70.010**Purpose.**

The purpose of this chapter is to enhance and preserve the compatibility between neighboring properties by regulating the scope and intensity of *accessory uses* or activities involving the keeping of animals. [Ord. 98-0026 §§ 1, 2 (KCC 21A.30.010).]

18.70.020**Animal regulations – Small animals and household pets.**

The raising, keeping, breeding or boarding of *small animals* and *household pets* are subject to Chapter 6.05 KMC, Animal Care and Control, and the following requirements:

A. The following *household pets* shall not be limited in number, except as may be provided in KMC Title 6:

1. Household pets in aquariums, terrariums, cages or similar containers;
2. Cats kept indoors.

B. Dogs kept indoors as *household pets* shall be limited to five.

C. *Small animals*, including cats and dogs not kept indoors as *household pets* but excluding bees, shall be limited as follows:

1. three per household on *lots* less than 20,000 square feet in size;
2. five per household on *lots* of 20,000 to 35,000 square feet in size;
3. An additional two *small animals* per acre of *site area* over 35,000 square feet up to a maximum of 20.
4. The keeping of roosters is prohibited in the *city*.
5. Mink and fox are permitted only on *sites* having a minimum area of five acres.

D. Excluding *kennels* and *catteries*, the total number of unaltered adult cats and/or dogs per household shall not exceed three. All unaltered animals kept outdoors must be kept on a leash or in a confined area, except as authorized for a hobby kennel or cattery or commercial *kennel* or *cattery* pursuant to Chapter 6.05 KMC.

E. All *small animals* shall be confined within a *building*, pen, aviary or similar *structure*, or a securely fenced portion of the *site*. Any covered *structure* used to house or contain such animals shall maintain a distance of not less than 10 feet to any property line, except *structures* used to house mink and fox shall be a distance of not less than 150 feet.

F. An aviary or loft shall provide a minimum of one-half square foot for each parakeet, canary or similarly sized birds, one square foot for each pigeon, small parrot or similarly sized bird, and two square feet for each large parrot, macaw or similarly sized bird.

G. A *structure* housing poultry, hamsters, nutria, chinchilla, or rabbits shall provide a minimum of one square foot of *structure* for each animal.

H. Beekeeping is limited as follows:

1. *Beehives* are limited to 50 on *sites* less than five acres;
2. The number of *beehives* shall not be limited on *sites* of five acres or greater;
3. Colonies shall be maintained in movable-frame hives at all times;
4. Adequate space shall be provided in each hive to prevent overcrowding and swarming;
5. Colonies shall be requened following any swarming or aggressive behavior;
6. All colonies shall be registered with the extension agent prior to April 1st of each year, on a state registration form acceptable to the *city*; and

7. Abandoned colonies, diseased bees, or bees living in *trees*, *buildings*, or any other space except in movable-frame hives shall constitute a public nuisance, and shall be abated as set forth in Chapter 18.125 KMC, Enforcement.

I. Limits on the allowable number of *small animals* described in this section may be exceeded only through approval of a *conditional use permit*, subject to the following:

1. The minimum *site area* shall be one-half acre.

2. Aviaries or lofts shall not exceed 2,000 square feet and shall be set back at least 20 feet from any *dwelling unit*.

3. Structures used to house poultry, hamsters, nutria, chinchilla, and rabbits are limited to a maximum of 2,000 square feet.

18.70.025

Kennels and Catteries.

Kennels and catteries are subject to the following requirements:

A. For *kennels* located on residential zoned *sites*:

1. The minimum *site area* shall be five acres; and

2. *Structures* housing animals and outdoor animal runs shall be a minimum distance of 100 feet from property lines abutting residential zones;

B. For *kennels* located on nonresidential zoned *sites*, run areas shall be completely surrounded by an eight-foot solid wall or *fence*; and

C. *Catteries* shall be on *sites* of 35,000 square feet or more, and *buildings* used to house cats shall be a minimum distance of 50 feet from property lines abutting residential zones. [Ord. 98-0026 §§ 1, 2 (KCC 21A.30.020).]

D. See Chapter 6.05 KMC for standards related to hobby kennels or catteries.

18.70.030

Animal regulations – Livestock – Purpose.

The primary purpose of sections KMC 18.70.040 through 18.70.100 is to support the raising and keeping of *livestock* in the *city* in a manner that minimizes the adverse impacts of *livestock* on the environment particularly with regard to their impacts on water quality and *salmonid* fisheries habitat in *city* watersheds. The following sections establish regulations which set *livestock* densities and require implementation of *best management practices* for minimizing non-point pollution from *livestock* in a manner that recognizes the need for integrated resource management within *city* watersheds. They are intended to be consistent with *livestock* welfare; however, these concerns are more appropriately addressed through Chapter 6.05 KMC. [Ord. 98-0026 §§ 1, 2 (KCC 21A.30.030).]

18.70.040

Animal regulations – Livestock – Densities.

The raising, keeping, breeding or fee boarding of *livestock* are subject to Chapter 6.05 KMC, Animal Care and Control, and the following requirements:

A. The minimum lot size on which *livestock* may be kept shall be 20,000 square feet provided that the portion of the total lot area used for confinement or grazing meets the requirements of this section.

B. The maximum number of *livestock* shall be as follows:

1. Commercial dairy farms in full compliance with a Washington State Department of Ecology NPDES general or *special use permit* – as consistent with the permit requirements. Otherwise, subsection (B)(4) of this section applies.

2. The keeping of *livestock* consistent with a King County farm management plan approved prior to January 1, 2011. Otherwise subsection (B)(4) of this section applies.

3. Six resident animal units per gross acre in *stables*, barns and other *livestock* operations with covered *confinement areas*; provided, that no more than three animal units per gross acre are allowed to use uncovered grazing or *confinement areas* on a full-time basis, and the standards in KMC 18.70.060 are met.

4. For all *livestock* not covered by subsections (B)(1) (B)(2) or (B)(3) of this section, three animal units per gross acre of vegetated *site area*; provided, that the standards in KMC 18.70.060 are met.

5. For purposes of these regulations, an animal unit shall consist of one adult horse or bovine, two ponies, five *small livestock*, or equivalent thereof (excluding sucklings); provided, that miniature horses and feeder calves (up to one year of age) shall be considered *small livestock*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.30.040).]

18.70.060

Animal regulations – Livestock – Management standards.

Property owners with farms containing *large livestock* at densities greater than one animal unit per two acres, and/or *small livestock* at densities greater than five animals per acre shall adhere to the following management standards. This

section shall apply as long as farm practices do not result in violation of any federal, state or local water quality standards or the *critical area* regulations in KMC Chapter 18.55.

A. Livestock Watering. To minimize *livestock* access to *streams*, property owners shall utilize the following livestock watering options:

1. The preferred option shall be a domestic water supply, stock watering pond, roof runoff collection system, or approved pumped supply from the *stream* so that *livestock* are not required to enter *streams* for their water supply.

2. *Livestock* access to *streams* and their *buffers* shall be limited to *stream* crossing and watering points approved under the provisions of KMC Chapter 18.55.

a. Fencing shall be used as necessary to prevent *livestock* access to *streams*, *wetlands* and their *buffers*.

B. Grazing and Pasture Management.

1. Fencing shall be used to establish and maintain *critical areas* and their *buffers*.

2. Fencing installed prior to August 31, 1998 at *setbacks* other than those specified in KMC Chapter 18.55 shall be deemed to constitute compliance with those requirements.

3. *Grazing areas* within 200 feet of a *stream* or *wetland* shall not be plowed during the rainy season (October 1st through April 15th).

4. *Grazing areas* may extend to the property line; provided, that *streams* and *wetlands* adjacent to the property line are buffered in accordance with KMC Chapter 18.55.

C. Confinement Area Management.

Confinement areas located within 200 feet of any *streams*, *wetlands* or drainageways shall:

a. Have a 20-foot wide vegetative filter strip downhill from the *confinement area*, consisting of heavy grasses or other ground cover with high stem density and which may also include *tree* cover;

b. Have roof drains of any *buildings* in the *confinement area* diverted away from the *confinement area*.

2. *Confinement areas* may extend to the property line; provided, that *streams* and *wetlands* adjacent to the property line are buffered in accordance with KMC Chapter 18.55.

D. Manure Management.

1. Manure storage areas shall be managed as follows:

a. Surface flows and roof runoff shall be diverted away from manure storage areas.

b. During the winter months (October 15th to April 15th), all manure stockpiled within 200 feet uphill of any *stream* or *wetland* shall be covered in a manner that excludes precipitation and allows free flow of air to minimize fire danger; or, in the alternative, shall be placed in an uncovered concrete bunker or manure lagoon or held for pickup in a dumpster, vehicle or other facility designed to prevent leachate from reaching any *streams* or *wetlands*. Concrete bunkers shall be monitored quarterly for the first two years after installation, then annually unless problems were identified in the first two years, in which case quarterly monitoring shall continue and appropriate adjustments shall be made.

c. Manure shall be stored in a location that avoids having runoff from the manure enter *streams* or *wetlands*. Manure piles shall not be located within any *stream* or *wetland buffer*.

2. Manure shall be spread on fields only during the growing season, and not on saturated or frozen fields.

18.70.070

Animal regulations – Livestock – Building requirements.

A. In residential zones, free boarding of *livestock* other than in a legally established *stable* shall only be as an *accessory use* to a residence on the subject property.

B. A barn or *stable* may contain a caretaker's *accessory living quarters* under the following conditions:

1. Only one accessory living quarter per primary detached *dwelling unit*;

2. The accessory living quarter shall not exceed 500 square feet; and

3. The *structure* must be constructed in conformance with the State Building Code.

C. A barn or *stable* may contain a caretaker's *accessory dwelling unit* as allowed pursuant to the provisions of this title relating to *accessory dwelling units*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.30.062).]

18.70.075

Animal regulations – Livestock - Setbacks for buildings and manure storage areas.

A. The minimum interior *setback* for any *building* used to house, confine or feed swine shall be 90 feet.

B. The minimum interior *setback* for any *building* used to house, confine or feed any other *livestock* shall be 25 feet.

C. The minimum interior *setback* for any manure storage area shall be 35 feet. [Ord. 98-0026 §§ 1, 2 (KCC 21A.12.122).]

18.70.080

Animal regulations – Livestock – Education and enforcement.

A. Education. Enforcement of these *livestock* standards shall initially emphasize achieving compliance with the standards as the primary objective, rather than the collection of fines or penalties. Fines or penalties are appropriate when a property owner or livestock operator has been advised of necessary corrective actions, and has not made those corrections. Where violations of the standards do occur, and such violations are directly linked to identified hazards or the discharge of prohibited contaminants, as enumerated in KMC 13.45.030, code enforcement must emphasize immediate correction of the practices resulting in the hazard or prohibited discharge.

B. Both the property owner and any renter or lessee of the property, hereinafter referred to “livestock operator”, shall be held responsible for compliance with these standards.

C. Prima Facie Evidence. Establishment and adherence to a farm management plan or the management standards provided by KMC 18.70.060 shall be prima facie proof of compliance with the regulatory provisions of KMC 13.45.040.

D. Violations of Specific Standards. The *city* shall be responsible for enforcement of the standards set out in this chapter. The *city* shall be responsible for enforcement of water quality violations pursuant to Chapter 13.45 KMC for prohibited discharges and hazards. If a specific standard identified in this chapter is not being adhered to, the operator and owner shall be given notice of noncompliance. The notice shall specify what actions must be taken to bring the property into compliance. The operator and owner shall be given 45 days in which to adhere to the management standards of KMC 18.70.060. Should the owner and/or livestock operator fail to bring the property into compliance with the standards, the *city*, after notice, may commence abatement proceedings and impose civil fines 30 days thereafter, to the extent necessary for compliance. Thereafter, upon exhaustion of any appeals, failure of the operator and owner to comply with any continuing order to abate, the operator and owner shall be subject to civil and criminal penalties, and other procedures, as set forth in this title and Chapter 1.20 KMC. [Ord. 98-0026 §§ 1, 2 (KCC 21A.30.066).]

18.70.090

Nonconformances.

Animals being lawfully kept prior to (adoption date of the ordinance) shall be allowed to remain until they are sold, moved, or have lived out their life. The *city* shall notify property owners regarding any known nonconforming animals so that they will not be replaced or their numbers increased following this date. Owners of nonconforming animals also shall be subject to the management practices of this chapter.

Chapter 18.73

ACCESSORY DWELLING UNITS, HOME OCCUPATION, HOME INDUSTRY

- 18.73.100 Accessory dwelling units.
- 18.73.110 Home occupation.
- 18.73.120 Home industry.

18.73.100

Accessory dwelling units.

- A. Only one accessory dwelling is allowed per primary *single detached dwelling unit*;
- B. An *accessory dwelling unit* is allowed only in the same *building* as the primary *dwelling unit* on a *lot* that is less than 10,000 square feet in area, or on a *lot* containing more than one primary dwelling;
- C. The primary *dwelling unit* or the *accessory dwelling unit* shall be owner occupied;

D. 1. If the *accessory dwelling unit* is attached to the primary *dwelling unit*, then the *dwelling units* shall not exceed a floor area of 1,000 square feet or 50 percent of the living area of the primary residence, whichever is greater; and

2. When the primary and *accessory dwelling units* are located in the same *building*, only one entrance may be located on each *street* side of the *building*;

3. If the *accessory dwelling unit* is detached from the primary residence, then the *accessory dwelling unit* may be 10 percent of the lot size, or 50 percent of the primary *dwelling unit*, whichever is less;

E. One additional off-street *parking space* shall be provided;

F. The *accessory dwelling unit* shall be converted to another permitted use or shall be removed if one of the *dwelling units* ceases to be owner occupied;

G. An *applicant* seeking to build an *accessory dwelling unit* shall file a notice approved by the department with the records and elections division which identifies the *dwelling unit* as accessory. The notice shall run with the land. The *applicant* shall submit proof that the notice was filed before the *department* shall approve any permit for the construction of the *accessory dwelling unit*. The required contents and form of the notice shall be set forth in administrative rules.

H. The total number of occupants in the principal *dwelling unit* and the *accessory dwelling unit* combined shall not exceed the maximum number established for a single-family dwelling as defined in KMC 18.20.1010.

18.73.110

Home occupation.

Residents of a *dwelling unit* may conduct one or more *home occupations* as accessory activities, provided:

A. The total area devoted to all *home occupation(s)* shall not exceed 20 percent of the floor area of the *dwelling unit*. Areas with attached garages and storage *buildings* shall not be considered part of the *dwelling unit* for purposes of calculating allowable *home occupation* area but may be used for storage of goods associated with the *home occupation*;

B. In residential zones, all the activities of the *home occupation(s)* shall be conducted indoors, except for those related to growing or storing of plants used by the *home occupation(s)*;

C. No more than one nonresident shall be employed by the *home occupation(s)*;

D. The following activities shall be prohibited in residential zones only:

1. Automobile, truck and *heavy equipment* repair;
2. Autobody work or painting;
3. Parking and storage of *heavy equipment*; and
4. Storage of building materials for use on other properties;

E. In addition to required parking for the *dwelling unit*, on-site parking shall be provided as follows:

1. One stall for a nonresident employed by the *home occupation(s)*; and
2. One stall for patrons when services are rendered on-site;

F. Sales shall be limited to:

1. Mail order sales; and
2. Telephone sales with off-site delivery;

G. Services to patrons shall be arranged by appointment or provided off-site;

H. The *home occupation(s)* may use or store a vehicle for pickup of materials used by the *home occupation(s)* or the distribution of products from the *site*, provided:

1. No more than one such vehicle shall be allowed;
2. Such vehicle shall not park within any required *setback* areas of the *lot* or on adjacent *streets*; and
3. Such vehicle shall not exceed a weight capacity of one ton;

I. The *home occupation(s)* shall not use electrical or mechanical equipment that results in:

1. A change to the occupancy type of the *structure(s)* used for the *home occupation(s)*;
2. Visual or audible interference in radio or television receivers, or electronic equipment located off-premises; or
3. Fluctuations in line voltage off-premises; and

J. Uses not allowed as *home occupations* may be allowed as a *home industry* pursuant to Chapter 18.73 KMC. [Ord. 98-0026 §§ 1, 2 (KCC 21A.30.080).]

18.73.120

Home industry.

A resident may establish a *home industry* as an accessory activity, provided:

- A. The *site area* shall be no less than one acre;
- B. The area of the *home industry* shall not exceed 50 percent of the floor area of the *dwelling unit*. Areas within attached garages and storage *buildings* shall not be considered part of the *dwelling unit* for purposes of calculating allowable *home industry* area but may be used for storage of goods associated with the *home occupation*;
- C. No more than four nonresidents shall be employed in a *home industry*;
- D. In addition to required parking for the *dwelling unit*, on-site parking shall be provided as follows:
 - 1. One stall for each nonresident employee of the *home industry*; and
 - 2. One stall for customer parking;
- E. Additional customer parking shall be calculated for areas devoted to the *home industry* at the rate of one stall per:
 - 1. One thousand square feet of *building* floor area; and
 - 2. Two thousand square feet of outdoor work or storage area;
- F. Sales shall be limited to items produced on-site, except for items collected, traded and occasionally sold by hobbyists, such as coins, stamps, and antiques;
- G. Ten feet of Type I *landscaping* shall be provided around portions of parking and outside storage areas which are otherwise visible from adjacent properties or public rights-of-way; and
- H. The city manager shall ensure compatibility of the *home industry* by:
 - 1. Limiting the type and size of equipment used by the *home industry* to those which are compatible with the surrounding neighborhood;
 - 2. Providing for *setbacks* or screening as needed to protect adjacent residential properties;
 - 3. Specifying hours of operation;
 - 4. Determining acceptable levels of outdoor lighting; and
 - 5. Requiring sound level tests for activities determined to produce sound levels which may be excessive. [Ord. 98-0026 §§ 1, 2 (KCC 21A.30.090).]

Chapter 18.77

AFFORDABLE HOUSING

Sections:

- 18.77.010 Affordable housing – Purpose and intent.
- 18.77.020 Applicability.
- 18.77.030 Requirements.

18.77.010

Affordable housing – Purpose and intent.

The purpose of this chapter is to implement, through regulations, the responsibility of the *city* under the Washington State Growth Management Act to consider the housing needs of all economic segments of the community, and to assure an adequate affordable housing supply in the *city*. The *city* recognizes that the marketplace is the primary supplier of adequate housing for those in the upper economic groups, but that some combination of appropriately zoned land, regulatory incentives, innovative planning techniques, and requirements will be necessary to make adequate provisions for the needs of households whose incomes are at or below median income. [Ord. 03-0175 § 47.]

18.77.020

Applicability.

The provisions of this chapter shall apply to multifamily residential *developments* proposed on property four acres or greater in size within the downtown residential or downtown commercial zones that lie west of NE 68th Avenue NE, and which are providing for more than 20 *multiple family dwelling units*. [Ord. 03-0175 § 47.]

18.77.030**Requirements.**

A. Affordable housing units amounting to 25 percent of the total number of units in the *development* shall be provided. Rents shall be affordable to those who make equal to or less than 50 percent of the King County median income; or

B. In lieu of meeting the requirements of subsection (A) of this section, a comparable level of benefit may be provided as determined by the *city*; for example, providing ownership housing affordable to those earning equal to or less than 80 percent of the median income at rates recognizing the difficulty in providing the units at the particular affordability level.

C. Unit size mix shall be comparable to the market mix, units shall be integrated into the whole *development*, and affordable units shall match the tenure of the whole *development*, unless otherwise authorized by the *city*.

D. Subject to *city* authorization, the affordable units need not be provided within the *development*, but must be provided within the downtown commercial, downtown residential, or regional business zone. Units may be either rented or sold. Off-site affordable housing may be provided if the *city* finds that:

1. The location chosen does not lead to undue concentration of affordable housing in any particular area of the *city*; and

2. The *site* is within close proximity to employment opportunities and/or transit services; and

3. Adequate infrastructure and municipal services can be provided.

E. Monthly rents, including utilities where applicable, shall be no greater than 30 percent of the monthly income for households earning 50 percent of the King County median income adjusted for household size. Sold units shall be sold to buyers earning equal to or less than 80 percent of the King County median income. Home prices considered affordable shall be determined by the *city*. Covenants shall be established which guarantee the fulfillment of this obligation. [Ord. 03-0175 § 47.]

Chapter 18.80**RESIDENTIAL DENSITY INCENTIVES**

Sections:

- 18.80.010 Purpose.
- 18.80.020 Permitted locations of residential density incentives.
- 18.80.030 Maximum densities permitted through residential density incentive review.
- 18.80.040 Public benefits and density incentives.
- 18.80.050 Rules for calculating total permitted dwelling units.
- 18.80.060 Review process.
- 18.80.070 Minor adjustments in final site plans.
- 18.80.080 Applicability of development standards.
- 18.80.090 Transfer rules.

18.80.010**Purpose.**

The purpose of this chapter is to provide density incentives to *developers* of residential property, in exchange for public benefits to help achieve comprehensive plan goals of affordable housing, *open space* protection, and parkland acquisition by:

A. Defining in quantified terms the public benefits that can be used to earn density incentives;

B. Providing rules and formulae for computing density incentives earned by each benefit;

C. Providing a method to realize the development potential of *sites* containing unique features of size, topography, environmental features or shape; and

D. Providing a review process to allow evaluation of proposed density increases and the public benefits offered to earn them, and to give the public opportunities to review and comment. [Ord. 03-0175 § 48; Ord. 98-0026 §§ 1, 2 (KCC 21A.34.010).]

18.80.020**Permitted locations of residential density incentives.**

Residential density incentives (RDIs) shall be used only on *sites* served by public sewers and only in the following zones:

- A. In R-4 through R-24 and downtown residential zones; and
- B. In DC, NB, CB, and RB zones when part of a *mixed use development*. [Ord. 03-0175 § 49; Ord. 98-0026 §§ 1, 2 (KCC 21A.34.020).]

18.80.030**Maximum densities permitted through residential density incentive review.**

The maximum density permitted through RDI review shall be 150 percent of the base density of the underlying zone of the *development site*. [Ord. 03-0175 § 50; Ord. 98-0026 §§ 1, 2 (KCC 21A.34.030).]

18.80.040**Public benefits and density incentives.**

A. The public benefits eligible to earn increased densities, and the maximum incentive to be earned by each benefit, are in subsection (E) of this section. The density incentive is expressed as additional bonus *dwelling units*, or fractions of *dwelling units*, earned per amount of public benefit provided.

B. Bonus *dwelling units* may be earned through any combination of the listed public benefits.

C. Bonus *dwelling units* may also be earned and transferred to the project *site* through the *transfer of density credit (TDC)* process by providing any of the *open space, park* site public benefits set forth in subsections (E)(2) of this section on *sites* other than that of the RDI *development*.

D. Residential *development* in R-4 through R-24 and downtown residential zones with property specific development standards requiring any public benefit enumerated in this chapter shall be eligible to earn bonus *dwelling units* in accordance with subsection (E) of this section if the public benefits provided exceed the basic development standards of this title. If a *development* is located in a special overlay district, bonus units may be earned if the *development* provides public benefits exceeding corresponding standards of the special district.

E. The following are the public benefits eligible to earn density incentives through RDI review:

BENEFIT	DENSITY INCENTIVE
1. AFFORDABLE HOUSING	
a. Benefit units consisting of rental housing permanently priced to serve low-income households (i.e., no greater than 30 percent of gross income for households at or below 50 percent of King County median income, adjusted for household size). A covenant on the <i>site</i> that specifies the income level being served, rent levels and requirements for reporting to the <i>city</i> shall be recorded at final approval.	2.0 bonus units per benefit unit.
b. Benefit units consisting of assisted housing units 600 square feet or less.	1.0 bonus unit per benefit unit.

BENEFIT	DENSITY INCENTIVE
c. Benefit units consisting of rental housing permanently priced to serve moderate-income households (i.e., no greater than 30 percent of gross income for households at or below 70 percent of King County median income, adjusted for household size). A covenant on the <i>site</i> that specifies the income level being served, rent levels and requirements for reporting to the <i>city</i> shall be recorded at final approval.	1.0 bonus unit per benefit unit.
d. Benefit units consisting of moderate income housing reserved for income- and asset-qualified home buyers (total household income at or below 80 percent of King County median, adjusted for household size). Benefit units shall be limited to owner-occupied housing, with prices restricted to same income group, based on current underwriting ratios and other lending standards for 30 years from date of first sale. A covenant on the <i>site</i> that specifies the income level and other aspects of buyer eligibility, price levels and requirements for reporting to the <i>city</i> shall be recorded at final approval.	1.0 bonus unit per benefit unit.
e. Projects in which units are reserved for moderate income- and asset-qualified buyers (total household income at or below 50 percent of the King County median, adjusted for household size). All units shall be limited to owner-occupied housing with prices restricted based on current underwriting ratios and other lending standards, and with prices restricted to same income group, for 30 years from date of first sale. Final approval conditions shall specify requirements for reporting to the <i>city</i> on both buyer eligibility and housing prices.	2.0 bonus units per benefit unit.
f. Benefit units consisting of <i>mobile home park</i> space or pad reserved for the relocation of an insignia or noninsignia <i>mobile home</i> , that has been or will be displaced due to closure of a <i>mobile home park</i> located in the <i>city</i> .	1.0 bonus unit per benefit unit.

BENEFIT	DENSITY INCENTIVE
2. OPEN SPACE, TRAILS AND PARKS	
a. Dedication of <i>park</i> site or <i>trail</i> right-of-way meeting the <i>city</i> location and size standards for neighborhood, community or regional <i>park</i> , or <i>trail</i> , and accepted by the <i>department</i> .	0.5 bonus unit per acre of <i>park</i> area or quarter-mile of <i>trail</i> exceeding the minimum requirement of Chapter 18.30 KMC for on-site recreation space or <i>trail</i> corridors, computed on the number of <i>dwelling units</i> permitted by the <i>site's</i> base density.
b. Improvement of dedicated <i>park</i> site to <i>city</i> standards for developed <i>parks</i> .	0.75 bonus unit per acre of <i>park</i> improvement. If the <i>applicant</i> is dedicating the site of the improvements, the bonus units earned by improvements shall be added to the bonus units earned by the dedication.
c. Improvement of dedicated <i>trail</i> segment to <i>city</i> standards.	1.8 bonus units per quarter-mile of <i>trail</i> constructed to <i>city</i> standard for pedestrian <i>trails</i> ; or 2.5 bonus units per quarter-mile of <i>trail</i> constructed to <i>city</i> standard for multipurpose <i>trails</i> (pedestrian/bicycle/equestrian). Shorter segments shall be awarded bonus units on a pro rata basis. If the <i>applicant</i> is dedicating the site of the improvements, the bonus units earned by improvements shall be added to the bonus units earned by the dedication.
d. Dedication of <i>open space</i> , meeting <i>city</i> acquisition standards to the <i>city</i> or a qualified public or <i>private</i> organization such as a nature conservancy.	0.5 bonus unit per acre of <i>open space</i> .

[Ord. 03-0175 § 51; Ord. 98-0026 §§ 1, 2 (KCC 21A.34.040).]

18.80.050

Rules for calculating total permitted dwelling units.

A. The formula for calculating the total number of *dwelling units* permitted through RDI review is as follows:

DUs allowed by +	Bonus DUs	DUs allowed by	TOTAL
	+	=	RDI
RDI site base		existing site	DUs
Density		density (if any)	

B. The total *dwelling units* permitted through RDI review shall be calculated using the following steps:

1. Calculate the number of dwellings permitted by the base density of the *site* in accordance with Chapter 18.30 KMC;
2. Calculate the total number of bonus *dwelling units* earned by providing the public benefits listed in KMC 18.80.040;
3. Add the number of bonus *dwelling units* earned to the number of *dwelling units* permitted by the base density;
4. Add the number of *dwelling units* permitted by the base density of the *site* sending *TDCs*, if any;
5. Round fractional *dwelling units* to the nearest whole number; 0.49 or less *dwelling units* are rounded down; and
6. On *sites* with more than one zone or zone density, the maximum density shall be calculated for the *site area* of each zone. Bonus units may be reallocated within the zones in the same manner set forth for base units. [Ord. 98-0026 §§ 1, 2 (KCC 21A.34.050).]

18.80.060**Review process.**

A. All RDI proposals shall be reviewed concurrently with a primary proposal to consider the proposed site plan and methods used to earn extra density as follows:

1. For the purpose of this section, a primary proposal is defined as a proposed subdivision, short subdivision of more than four lots, *conditional use permit* or commercial building permit.
2. When the primary proposal requires a public hearing under this code or KMC Title 17, the public hearing on the primary proposal shall serve as the hearing on the RDI proposal, and the reviewing authority shall make a consolidated decision on the proposed *development* and use of RDI;
3. When the primary proposal does not require a public hearing under this code or KMC Title 17, the RDI proposal shall be subject to the decision criteria for *conditional use permits* outlined in Chapter 18.115 KMC and to the procedures set forth for *city manager/hearing examiner* review in this title; and
4. The notice for the RDI proposal also shall include the *development's* proposed density and a general description of the public benefits offered to earn extra density.

B. RDI applications which propose to earn bonus units by dedicating real property or public facilities shall include a letter from the receiving agency certifying that the proposed dedication qualifies for the density incentive and will be accepted by the agency or other qualifying organization. [Ord. 98-0026 §§ 1, 2 (KCC 21A.34.060).]

18.80.070**Minor adjustments in final site plans.**

When issuing building permits in an approved RDI *development*, the *department* may allow minor adjustments in the approved site plan involving the location or dimensions of *buildings* or *landscaping*, provided such adjustments shall not:

- A. Increase the number of *dwelling units*;
- B. Decrease the amount of perimeter *landscaping* (if any);
- C. Decrease residential parking facilities (unless the number of *dwelling units* is decreased);
- D. Locate *structures* closer to any *site* boundary line; or
- E. Change the locations of any points of ingress and egress to the *site*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.34.070).]

18.80.080**Applicability of development standards.**

A. RDI *developments* shall comply with dimensional standards of the zone with a base density most closely comparable to the total approved density of the RDI *development*; provided, that an RDI proposal in the R-4 through R-6 zones shall conform to the height requirements of the underlying zone in which it is located.

B. RDI *developments* in the R-4 through R-6 zones shall be landscaped as follows:

1. When 75 percent or more of the units in the RDI *development* consists of *townhouses* or *apartments*, the *development* shall provide perimeter *landscaping* and *tree* retention in accordance with Chapter 18.35 and 18.57 KMC for *townhouse* or *apartment* projects.
2. When less than 75 percent of the units in the RDI consists of *townhouses* or *apartments*, the *development* shall provide *landscaping* and *tree* retention in accordance with Chapter 18.35 and 18.57 KMC for *townhouses* or

apartments on the portion(s) of the *development* containing such units; provided, that if *buildings* containing such units are more than 100 feet from the *development's* perimeter, the required *landscaping* may be reduced by 50 percent.

3. All other portions of the RDI shall provide *landscaping* or retain *trees* in accordance with Chapter 18.35 and 18.57 KMC.

C. RDI *developments* in all other zones shall be landscaped or retain *trees* in accordance with Chapter 18.35 and 18.57 KMC.

D. RDI *developments* shall provide parking as follows:

1. Projects with 100 percent affordable housing shall provide one off-street *parking space* per unit. The *city manager* may require additional parking, up to the maximum standards for attached *dwelling units*, which may be provided in common parking areas.

2. All other RDI proposals shall provide parking for:

a. Market rate/bonus units at levels consistent with Chapter 18.40 KMC; and

b. Benefit units at:

i. One or two bedrooms: one *parking space* per unit;

ii. Three bedrooms: 1.5 *parking spaces* per unit;

iii. Parking may be further reduced if a parking demand analysis is provided per KMC 18.40.030(B).

E. RDI *developments* shall provide on-site recreation space as follows:

1. Projects with 100 percent affordable housing shall provide recreation space at 50 percent of the levels required in Chapter 18.30 KMC.

2. All other RDI proposals shall provide recreation space for:

a. Market rate/bonus units at levels consistent with Chapter 18.30 KMC; and

b. Benefit units at 50 percent of the levels required for market rate/bonus units. [Ord. 03-0175 § 52; Ord. 98-0026 §§ 1, 2 (KCC 21A.34.080).]

18.80.090

Transfer rules.

A. The number of density credits that a *sending site* is eligible to send to a *receiving site* shall be determined by applying the base density of the zone the *sending site* is located in to the total *sending site area*, less any portion of the *sending site* already in a conservation easement or other encumbrance, or any land area already used to calculate residential density for other *development*. A plot plan showing *critical areas* and *buffers*, conservation easements or other encumbrances shall be submitted as part of the development application to demonstrate compliance with the density calculation rules set forth in Chapter 18.30 KMC.

B. *Sending sites* with *critical areas* that have been declared unbuildable under Chapter 18.30 KMC shall be considered to have a base density calculated in accordance with that chapter, except that the areas of the sending and receiving sites shall be combined to calculate the overall *site* percentage of *critical areas* and *buffers* necessary for determining the allowable density credit as set forth in Chapter 18.55 KMC.

C. Density credits from one *sending site* may be allocated to more than one *receiving site*. The credit from each segment shall be allocated to a specified *receiving site*.

D. When the *sending site* consists only of a portion(s) of an unsubdivided parcel, said portion(s) shall be segregated from the remainder of the *lot* pursuant to KMC Title 17 or deed restrictions documenting the density credit transfers shall be recorded with the title to both the *sending* and *receiving site*. A parcel need not segregate a *sending site* from the remainder of the parcel when the entire parcel is subject to a conservation easement pursuant to subsection (E) of this section.

E. Conservation easements shall be required for land contained in the *sending site*, whether or not such land is dedicated, as follows: a conservation easement as defined in the *open space* plan shall be recorded on the *sending site* to indicate development limitations on the *sending site*.

F. Upon submitting an application to develop a *receiving site* under the provisions of this chapter, the *applicant* shall provide evidence of ownership or full legal control of all *sending sites* proposed to be used in calculating total density on the *receiving site*. It shall be the *applicant's* responsibility, prior to application, to ascertain what form of permanent protection of the *sending site* will be acceptable to the *city*.

G. Density credits from a *sending site* shall be considered transferred to a *receiving site* when the *sending site* is permanently protected by a completed and recorded land dedication or conservation easement.

H. *TDC developments* shall comply with dimensional standards of the zone with a base density most closely comparable to the total approved density of the *TDC development*. [Ord. 08-0293 § 2; Ord. 98-0026 §§ 1, 2 (KCC 21A.36.050).]

Chapter 18.100

GENERAL PROVISIONS – NONCONFORMANCE, EXISTING LEGAL USES, AND TEMPORARY USES

Sections:

- 18.100.010 Purpose.
- 18.100.020 Nonconformance – Applicability.
- 18.100.030 Nonconformance – Creation, continuation, and forfeiture of nonconformance status.
- 18.100.040 Nonconformance – Abatement of illegal use, structure or development.
- 18.100.050 Nonconformance – Re-establishment of discontinued nonconforming use, or damaged or destroyed nonconforming structure or site improvement.
- 18.100.060 Nonconformance – Modifications to nonconforming use, structure, or site improvement.
- 18.100.070 Nonconformance – Expansions of nonconforming uses, structures, or site improvements.
- 18.100.080 Nonconformance – Required findings.
- 18.100.085 Existing legal uses abandonment.
- 18.100.087 Existing legal uses expansion.
- 18.100.090 Nonconformance – Residences.
- 18.100.100 Temporary use permits.
- 18.100.110 Temporary use permits – Exemptions to permit requirement.
- 18.100.120 Temporary use permits – Duration and frequency.
- 18.100.125 Temporary use permits -- Decision criteria.
- 18.100.130 Temporary use permits – Parking.
- 18.100.140 Temporary use permits – Traffic control.
- 18.100.150 Temporary construction buildings.
- 18.100.160 Temporary construction residence.
- 18.100.170 Temporary mobile home for medical hardship.
- 18.100.180 Temporary real estate offices.
- 18.100.190 Temporary school facilities.

18.-100.010

Purpose.

The purposes of this chapter are to:

- A. Establish the legal status of a *nonconformance* by creating provisions through which a *nonconformance* may be maintained, altered, reconstructed, expanded or terminated;
- B. Establish the rules for an *existing legal use* by creating provisions through which an *existing legal use* may be maintained, altered, reconstructed, expanded or terminated; and
- C. Provide for the temporary establishment of *uses* that are not otherwise permitted in a zone or that do not meet all development standards of a zone and to regulate such *uses* by their scope and period of use.

18.100.020

Nonconformance – Applicability.

- A. All *nonconformances* shall be subject to the provisions of this chapter.
- B. The provisions of this chapter do not supersede or relieve a property owner from compliance with:
 - 1. The requirements of the Uniform Building and Fire Codes; or
 - 2. The provisions of this code beyond the specific *nonconformance* addressed by this chapter. [Ord. 98-0026 §§ 1, 2 (KCC 21A.32.020).]

18.100.030**Nonconformance – Creation, continuation, and forfeiture of nonconformance status.**

Once created pursuant to KMC 18.20.1860, a *nonconformance* may be continued in a manner consistent with the provisions of this chapter. However, *nonconformance* status is forfeited if the *nonconformance* is discontinued beyond the provisions of KMC 18.100.050. Once *nonconformance* status is forfeited, the *nonconformance* shall not be re-established. [Ord. 98-0026 §§ 1, 2 (KCC 21A.32.025).]

18.100.040**Nonconformance – Abatement of illegal use, structure or development.**

Any *use, structure* or other site improvement not established in compliance with use and development standards in effect at the time of establishment shall be deemed illegal and shall be discontinued or terminated and subject to removal pursuant to the provisions of Chapter 1.20 KMC. [Ord. 98-0026 §§ 1, 2 (KCC 21A.32.040).]

18.100.050**Nonconformance –****Re-establishment of discontinued nonconforming use, or damaged or destroyed nonconforming structure or site improvement.**

A nonconforming *use* which has been discontinued, or a nonconforming *structure* or site improvement which has been damaged or destroyed, may be re-established or reconstructed if:

- A. The nonconforming *use, structure*, or site improvement which previously existed is not expanded;
- B. A new *nonconformance* is not created;

C. The *use* has not been discontinued for more than 12 months prior to its re-establishment, or the nonconforming *structure* or site improvement is reconstructed pursuant to a complete permit application submitted to the *department* within 12 months of the occurrence of damage or destruction and the construction is diligently pursued according to issued permits; and

D. Requests for extension of the period identified in subsection (C) of this section to continue the *use* or submit construction applications may be made to the *city manager* in writing prior to the expiration of 12-month period, and shall be treated as a Type 2 permit review. The *city manager* shall determine whether to grant the extension for *use* continuance or reconstruction on (i) the basis of a good faith effort by the *applicant* either to lease property or to make a complete application or pursue the fulfillment of approved *development permits* with diligence, and (ii) extenuating circumstances beyond the control of the *applicant* have caused a delay towards continuing the *use* or towards preparation of a complete application or diligent pursuit of construction. Examples of situations that would not qualify as extenuating circumstances include a change in economic market conditions for a *use*, or delays in financing. [Ord. 03-0175 § 42; Ord. 98-0026 §§ 1, 2 (KCC 21A.32.045).]

18.100.060**Nonconformance – Modifications to nonconforming use, structure, or site improvement.**

Modifications to a nonconforming *use, structure*, or site improvement may be reviewed and approved by the *department* provided that:

- A. The modification does not expand or intensify any existing *nonconformance*; and

B. The modification does not create a new type of *nonconformance*. Proposed expansions of a *nonconformance* are governed by KMC 18.100.070. [Ord. 03-0175 § 43; Ord. 98-0026 §§ 1, 2 (KCC 21A.32.055).]

18.100.070**Nonconformance – Expansions of nonconforming uses, structures, or site improvements.**

A nonconforming *use, structure*, or site improvement may be expanded, provided the expansion does not extend beyond the original parcels at the time the *use* or *structure* or site improvements became nonconforming, only as follows:

- A. The *department* may review and approve an expansion of a *nonconformance* provided that:

1. The expansion shall conform to all other provisions of this title, except that the extent of the project-wide *nonconformance* in each of the following may be increased up to 10 percent:

- a. Building square footage (for a *floor area ratio* or building size *nonconformance*);
- b. *Impervious surface*;

- c. Parking; or
- d. Building height.

2. Unless provisions specifically indicate conditions under which full compliance with standards are required, when expansions are proposed pursuant to subsections (A), (B) or (C) of this section, the percentage (by value) of the required code compliance standards to be installed shall be established by dividing the value of the proposed improvement by the assessed value of the existing *lot* and *structure* improvements up to 100 percent; the *city manager* shall have the authority to specify the location and phasing sequence of the required improvements which fall under this section. The percentage (by value) of the required design or development standards to be installed shall be related to the *building* or site improvement proposed by the *applicant*. For example, if parking expansions are proposed, parking lot *landscaping* requirements may be applied.

3. No subsequent expansion of the same *nonconformance* shall be approved under this subsection if the cumulative amount of such expansion exceeds the percentage prescribed in subsection (A)(1) of this section.

4. Where an accessory *drive-through service use* is determined to be nonconforming, but expansion of the principal allowed *use* is authorized, the nonconforming accessory *drive-through service* activity may be retained along with the expanded principal allowed *use*, provided the accessory *drive-through service* meets required design standards and is not increased in size or scope.

B. A *special use permit* shall be required for expansions of a *nonconformance* within a *development* authorized by an existing *special use permit* if the expansions are not consistent with the provisions of subsection (A) of this section.

C. A *conditional use permit* shall be required for expansions of a *nonconformance* not consistent with the provisions of subsections (A) and (B) of this section.

D. No expansion shall be approved that would conflict with *city* comprehensive plan policies. [Ord. 03-0189 § 1; Ord. 03-0175 § 44; Ord. 98-0026 §§ 1, 2 (KCC 21A.32.065).]

18.100.080

Nonconformance – Required findings.

Modifications or expansions approved by the *department* shall be based on written findings that the proposed modification or expansion of a *nonconformance* located within a *development* governed by an existing *conditional use permit* or *special use permit* shall provide the same level of protection for and compatibility with adjacent land *uses* as the original land use permit approval. [Ord. 98-0026 §§ 1, 2 (KCC 21A.32.075).]

18.100.085

Existing legal uses abandonment.

If an *existing legal use* has not been discontinued for more than 12 months prior to its re-establishment, or the nonconforming *structure* or site improvement is reconstructed pursuant to a complete permit application submitted to the *department* within 12 months of the occurrence of damage or destruction and the construction is diligently pursued according to issued permits, such *existing legal use* may be retained.

18.100.087

Existing legal uses expansion.

Uses listed as permitted “*existing legal*” *uses* in a zone may be rebuilt or re-established should they suffer damage. These *uses* may be remodeled or enlarged subject to current development code requirements (e.g., height limits, lot coverage, density limits, *setbacks*, parking, etc.). Expansion may occur on original parcels containing the *use* as of the effective date of “*existing legal*” status. Expansion of *existing legal uses* may be permitted to adjacent parcels if the adjacent parcels were and are still owned or leased by the same business or residential *use* owner at the time the *use* became *existing legal*. [Ord. 03-0175 § 46.]

18.100.090

Nonconformance – Residences.

Any residence nonconforming relative to *use* may be expanded, after review and approval, subject to all other applicable codes besides those set forth in this chapter for *nonconformances*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.32.085).]

18.100.100**Temporary use permits.**

A temporary use permit is a mechanism by which the *city* may permit a *use* to locate within the *city* on an interim basis, without requiring full compliance with the development standards or by which the *city* may permit seasonal or transient *uses* not otherwise permitted.

Except as provided by KMC 18.100.110, a temporary use permit shall be required for:

- A. *Uses* not otherwise permitted in the zone that can be made compatible for periods of limited duration and/or frequency;
- B. *Uses* permitted in a zone which do not meet all of the required development standards but that can be made compatible for periods of limited duration and/or frequency; or
- C. Limited expansion of any *use* that is otherwise allowed in the zone but which exceeds the intended scope of the original land use approval. [Ord. 98-0026 §§ 1, 2 (KCC 21A.32.100).]

18.100.110**Temporary use permits – Exemptions to permit requirement.**

A. Any *use* not exceeding a cumulative total of two days each calendar year shall be exempt from requirements for a temporary use permit.

B. The following *uses* shall be exempt from requirements for a temporary use permit when located in the RB, CB, DC, PSP, P, or NB zones for the time period specified below:

- 1. *Uses* not to exceed a total of 30 days each calendar year:
 - a. Christmas tree lots; and
 - b. Produce stands.
- 2. *Uses* not to exceed a total of 14 days each calendar year:
 - a. Amusement rides, carnivals, or circuses;
 - b. Community festivals; and
 - c. Parking lot sales.

C. Any community event held in a *park* and not exceeding a period of seven days shall be exempt from requirements for a temporary use permit. [Ord. 08-0293 § 2; Ord. 98-0026 §§ 1, 2 (KCC 21A.32.110).]

D. Temporary uses or activities, conducted during an *emergency* event, or training exercises conducted at emergency sites, designated pursuant to an emergency management plan, shall not be subject to the provisions of this title. [Ord. 98-0026 §§ 1, 2 (KCC 21A.02.040).]

18.100.120**Temporary use permits – Duration and frequency.**

Temporary use permits shall be limited in duration and frequency as follows:

- A. The temporary use permit shall be effective for up to 365 days after issuance by the *city manager*;
- B. The temporary use shall not exceed a total of 90 days or as otherwise provided in this title; provided, that this requirement applies only to the days that the event(s) authorized by the permit actually take place. This time limit may be extended by the *city council* following a public hearing on the proposal.
- C. The temporary use permit shall specify a date upon which the *use* shall be terminated and removed; and
- D. A temporary use permit shall not be granted for the same temporary use on a property more than once per calendar year; provided, that a temporary use permit may be granted for multiple events during the approval period. [Ord. 06-0249 § 1; Ord. 99-0052 § 3; Ord. 98-0026 §§ 1, 2 (KCC 21A.32.120).]

18.100.125**Temporary use permits – Decision criteria.**

A temporary use permit shall be granted by the *city*, only if the *applicant* demonstrates that:

- A. The proposed temporary use will not be materially detrimental to the public welfare;
- B. The proposed temporary use is compatible with existing land *uses* in the immediate vicinity in terms of noise and hours of operation; and
- C. Adequate public off-street parking and traffic control for the exclusive use of the proposed temporary use can be provided in a safe manner.

18.100.130**Temporary use permits – Parking.**

Parking and access for proposed temporary uses shall be approved by the *city*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.32.130).]

18.100.140**Temporary use permits – Traffic control.**

The *applicant* for a proposed temporary use shall provide any parking/traffic control attendants as specified by the *department*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.32.140).]

18.100.150**Temporary construction buildings.**

Temporary *structures* for storage of tools and equipment, or for supervisory offices may be permitted for construction projects; provided, that such *structures* are:

- A. Allowed only during periods of active construction; and
- B. Removed within 30 days of project completion or cessation of work. [Ord. 98-0026 §§ 1, 2 (KCC 21A.32.150).]

18.100.160**Temporary construction residence.**

A. A *mobile home*, motor home, travel trailer, or truck camper may be permitted on a *lot* as a temporary dwelling for the property owner, provided a building permit for a permanent dwelling on the *site* has been obtained and adequate provisions are made for utility services, including potable water and waste water disposal.

B. The temporary construction residence permit shall be effective as long as the building permit for the permanent dwelling on the *site* is active.

C. The temporary construction residence shall be removed within 90 days of:

- 1. The expiration of the building permit for the permanent dwelling on the *site*; or
- 2. The issuance of a certificate of occupancy for the permanent residence, whichever occurs first. [Ord. 98-0026 §§ 1, 2 (KCC 21A.32.160).]

18.100.170**Temporary mobile home for medical hardship.**

A. A *mobile home* may be permitted as a temporary dwelling on the same *lot* as a permanent dwelling, provided:

1. The *mobile home* together with the permanent residence shall meet the *setback*, height, building footprint, and lot coverage provisions of the applicable zone; and

2. The *applicant* submits with the permit application a notarized affidavit that contains the following:

a. Certification that the temporary dwelling is necessary to provide *daily care*, as defined in Chapter 18.20 KMC;

b. Certification that the primary provider of such *daily care* will reside on-site;

c. Certification that the *applicant* understands the temporary nature of the permit, subject to the limitations outlined in subsections (B) and (C) of this section;

d. Certification that the physician's signature is both current and valid; and

e. Certification signed by a physician that a resident of the subject property requires *daily care*, as defined in Chapter 18.20 KMC.

B. Temporary mobile home permits for medical hardships shall be effective for 12 months. Extensions of the temporary mobile home permit may be approved in 12-month increments subject to demonstration of continuing medical hardship in accordance with the procedures and standards set forth in subsection (A) of this section.

C. The *mobile home* shall be removed within 90 days of:

- 1. The expiration of the temporary mobile home permit; or
- 2. The cessation of provision of *daily care*. [Ord. 98-0026 §§ 1, 2 (KCC 21A.32.170).]

18.100.180**Temporary real estate offices.**

One temporary real estate office may be located on any new residential *development*; provided, that activities are limited to the initial sale or rental of property or units within the *development*. The office *use* shall be discontinued within one year of recording of a short subdivision of four lots or less or issuance of a final certificate of occupancy for an *apartment development*, and within two years of the recording of a formal subdivision or short subdivision of more than four lots. [Ord. 98-0026 §§ 1, 2 (KCC 21A.32.180).]

18.100.190**Temporary school facilities.**

Temporary school *structures* may be permitted during construction of new school facilities or during remodeling of existing facilities; provided, that such *structures*:

- A. Are allowed only during periods of active construction or remodeling;
- B. Do not expand the student capacity beyond the capacity under construction or remodeling; and
- C. Are removed within 30 days of project completion or cessation of work. [Ord. 98-0026 §§ 1, 2 (KCC 21A.32.190).]

Chapter 18.105**SITE PLAN REVIEW**

Sections:

- 18.105.010 Purpose.
- 18.105.020 Applicability.
- 18.105.030 Process.
- 18.105.040 Application of development standards.
- 18.105.050 Approval.
- 18.105.060 Limitation of permit approval.
- 18.105.070 Administrative rules.

18.105.010**Purpose.**

The purpose of this chapter is to establish a comprehensive site plan review process for *development* proposals on certain sites in selected zones of the city based on their significant size, location, frontage on major public thoroughfares, use, or project scope. This will result in a land use decision which can combine any or all of the following:

- A. *Site* development requirements specified prior to building, grading or engineering permit applications.
- B. *Site* review and application of rules and regulations generally applied to the whole *site* without regard to existing or proposed internal lot lines.
- C. *Site development* coordination and project phasing occurring over a period of years.
- D. Evaluation against specific approval criteria.
- E. Evaluation of commercially zoned property for the creation or alteration of *lots* as part of a binding site plan application.

18.105.020**Applicability.**

- A. An application for site plan review shall be submitted for the following *development proposals*:
 - 1. *Development* on *sites* identified on the *city's* Site Plan Review Requirement Map;
 - 2. *Development* on *sites* equal to or greater than three acres in size at the time of application in the PSP zone;
 - 3. *Development* proposed for *classified uses* which are neither permitted, nor conditionally permitted, nor prohibited in the P, GC or PSP zones; or
 - 4. *Development* on other *sites* as determined by the *city manager* after a preliminary review of the project's scope.

- B. An application for site plan review may be submitted by an applicant for any *development proposal*.
- C. A site plan review is separate from and does not replace other required land use permits. A site plan review may be combined and reviewed concurrently with other land use permits, however.
- D. If required or requested under subsections (A) or (B) above, an applicant shall receive a site plan review prior to the issuance of building, mechanical, plumbing, electrical, clearing, grading, engineering, or other similar administrative permits.
- E. Proposed expansion of existing *development* for *sites* described under subsection (A), with or without an approved site plan review, shall require a new site plan review when such changes are determined by the *city manager* to be a major modification. For purposes of this section, factors to be considered when determining whether an expansion is a major modification include but are not limited to relocation of access or parking, addition of a building, or incorporation of an additional lot.
- F. An applicant may request a waiver of the site plan review requirement from the *city manager*. Such waiver shall be based on a preliminary review of the development proposal and a written finding that the proposal is consistent with the comprehensive plan and the requirements of this title, is minor in scope, and will have no adverse effects on neighboring properties or the city as a whole.

18.105.030**Process.**

A site plan review shall be processed as follows:

- A. For those *sites* identified under KMC 18.105.020(A)(1) and (2), and (B), the site plan review shall be processed in accordance with requirements for a Type 2 land use decision as outlined in Chapter 19.25 KMC.
- B. For those *sites* identified under KMC 18.105.020(A)(3), the site plan review shall be processed in accordance with requirements for a Type 4 land use decision as outlined in Chapter 19.25.
- C. For those *sites* identified under KMC 18.105.020(A)(4), the site plan review shall be processed in accordance with requirements for a Type 2 land use decision as outlined in Chapter 19.25, unless otherwise determined by the city manager.

18.105.040**Application of development standards.**

An application for a site plan review shall be reviewed pursuant to all adopted *city* codes and regulations.

Lot-based standards, such as internal circulation, drainage control, landscaping, signage and setback requirements, are typically applied to each individual *lot* within the *site*. However, the *city manager* may approve an application for site plan review where such standards have been applied to the *site* as if it consisted of one parcel.

The *city manager* may modify lot-based or lot line requirements contained within the building, fire and other similar uniform codes adopted by the *city*; provided, the *site* is being reviewed concurrently with a binding site plan application.

18.105.050**Approval.**

A. The *city manager* may approve, deny, or approve with conditions an application for a site plan review. The decision shall be based on the following approval criteria:

- 1. Conformity with adopted *city* and state rules and regulations in effect on the date the complete application was filed;
 - 2. Consideration of the recommendations or comments of interested parties and those agencies having pertinent expertise or jurisdiction, consistent with the requirements of this title;
 - 3. Compatibility with the character and appearance of existing or proposed development in the vicinity of the subject property;
 - 4. Compatibility with plans for existing and proposed pedestrian and vehicular traffic in the vicinity of the subject property; and
 - 5. Conformity with the *city's* comprehensive plan.
- B. Subsequent permits for the subject *site* shall be issued only in compliance with the approved site plan review.

C. Approval of the site plan review shall not provide the *applicant* with a vested right to build without regard to subsequent changes in the building and fire codes listed in KMC Title 15 regulating construction.

18.105.060**Limitation of permit approval.**

A. A site plan review approved without a phasing plan shall be null and void if the *applicant* fails to file a complete building permit application(s) for all *buildings* within three years of the approval date, or by a date specified by the *city manager*; and fails to have all valid building permits issued within four years of the site plan review approval date; or

B. A site plan review approved with a phasing plan shall be null and void if the *applicant* fails to meet the conditions and time schedules specified in the approved phasing plan.

C. The *city manager* may grant one or more extensions of the time limits set forth in subsections (A) and (B) of this section, each of a duration determined by the *city manager*, if the following findings are made:

1. Initial building permits have not been submitted or the project has not been completed due to causes beyond the *applicant's* control, such as litigation, acts of God, unanticipated *site* conditions or adverse economic market conditions;

2. The *applicant* has shown a good faith effort to commence or complete the project within the time previously allotted;

3. Conditions identified as part of SEPA or other permit processes remain appropriate to address project impacts. The *city manager* has the authority to establish additional conditions designed to address incremental changes in project impacts arising or occurring as a result of any extension of time; and

4. The period of the extension granted is reasonable in light of the conditions warranting the extension and the incremental changes, if any, in project impacts.

18.105.070**Administrative rules.**

The *city manager* may promulgate administrative rules and regulations to implement the provisions and requirements of this chapter.

Chapter 18.115**VARIANCE, CONDITIONAL USE, SPECIAL USE, AND ZONE RECLASSIFICATION PERMITS AND MODIFICATIONS**

Sections:

18.115.010 Purpose.

18.115.030 Variance.

18.115.040 Conditional use permit.

18.115.050 Special use permit.

18.115.060 Zone reclassification.

18.115.065 Permit expirations.

18.115.080 Modifications or expansions of uses or developments authorized by existing conditional use or special use permits – When use now permitted outright.

18.115.090 Modifications or expansions of uses authorized by existing conditional use or special use permits – Required findings.

18.115.100 Modifications and expansions – Uses or development authorized by existing conditional use or special use permits.

18.115.010**Purpose.**

The purposes of this chapter are to allow for consistent evaluation of land use applications and to protect nearby properties from the possible effects of such requests by:

- A. Providing clear criteria on which to base a decision;
- B. Recognizing the effects of unique circumstances upon the development potential of a property;
- C. Avoiding the granting of special privileges;
- D. Avoiding *development* which may be unnecessarily detrimental to neighboring properties;
- E. Requiring that the design, scope and intensity of *development* is in keeping with the physical aspects of a *site* and adopted land use policies for the area; and
- F. Providing criteria which emphasize protection of the general character of neighborhoods. [Ord. 98-0026 §§ 1, 2 (KCC 21A.44.010).]

18.115.030

Variance.

- A *variance* shall be granted by the *city*, only if the *applicant* demonstrates all of the following:
- A. The strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;
 - B. The *variance* is necessary because of the unique size, shape, topography, or location of the subject property;
 - C. The subject property is deprived, by provisions of this title, of rights and privileges enjoyed by other properties in the vicinity and under an identical zone;
 - D. The *variance* does not create health and safety hazards, is not materially detrimental to the public welfare or is not unduly injurious to property or improvements in the vicinity;
 - E. The *variance* does not relieve an *applicant* from any of the procedural provisions of this title;
 - F. The *variance* does not relieve an *applicant* from any standard or provision that specifically states that no *variance* from such standard or provision is permitted;
 - G. The *variance* does not relieve an *applicant* from conditions established during prior permit review or from provisions enacted pursuant to Chapter 18.47 KMC, General Provisions – Property-Specific Development Standards/Special District Overlays;
 - H. The *variance* does not allow establishment of a *use* that is not otherwise permitted in the zone in which the proposal is located;
 - I. The *variance* does not allow the creation of *lots* or densities that exceed the base residential density for the zone by more than 10 percent;
 - J. The *variance* is the minimum necessary to grant relief to the *applicant*;
 - K. The *variance* from *setback* or height requirements does not infringe upon or interfere with easement or covenant rights or responsibilities; and
 - L. The *variance* does not relieve an *applicant* from any provisions of Chapter 18.55 KMC, Critical Areas, except for required buffer widths and building setbacks. *Variances* to the buffer width and building setback provisions of Chapter 18.55 KMC also are addressed in KMC 18.55.170. [Ord. 98-0026 §§ 1, 2 (KCC 21A.44.030).]

18.115.040

Conditional use permit.

- A *conditional use permit* shall be granted by the *city*, only if the *applicant* demonstrates that:
- A. The conditional use is designed in a manner which is compatible with the character and appearance of an existing or proposed *development* in the vicinity of the subject property;
 - B. The location, size and height of *buildings*, *structures*, walls and *fences*, and screening *vegetation* for the conditional use shall not hinder neighborhood circulation or discourage the permitted *development* or *use* of neighboring properties;
 - C. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;
 - D. Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title;
 - E. The conditional use is not in conflict with the health and safety of the community;
 - F. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; and
 - G. The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities. [Ord. 98-0026 §§ 1, 2 (KCC 21A.44.040).]

18.115.050**Special use permit.**

A *special use permit* shall be granted by the *city*, only if the *applicant* demonstrates that:

- A. The characteristics of the special use will not be unreasonably incompatible with the types of *uses* permitted in surrounding areas;
- B. The special use will not materially endanger the health, safety and welfare of the community;
- C. The special use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood;
- D. The special use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts;
- E. The location, size and height of *buildings, structures, walls and fences*, and screening *vegetation* for the special use shall not hinder or discourage the appropriate *development* or *use* of neighboring properties; and
- F. The special use is not in conflict with the policies of the comprehensive plan or the basic purposes of this title. [Ord. 98-0026 §§ 1, 2 (KCC 21A.44.050).]

18.115.060**Zone reclassification.**

A zone *reclassification* shall be granted only if the *applicant* demonstrates that the proposal complies with the criteria for approval specified in KMC 19.30.210 and 19.30.220 and is consistent with the comprehensive plan and applicable functional plans. [Ord. 98-0026 §§ 1, 2 (KCC 21A.44.060).]

18.115.065**Permit expirations.**

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

B. For the purpose of this section, “establishment” shall occur upon the issuance of all local permit(s) for on-site improvements needed to begin the authorized *use* or development activity; provided, that the improvements or development activity authorized by such permits are completed within the timeframes of said permits.

C. Once a *use*, activity or improvement allowed by a *conditional use permit* or *variance* has been established, it may continue as long as all conditions of permit issuance are met. [Ord. 98-0026 §§ 1, 2 (KCC 21A.42.090).]

D. Expiration dates for *special use permits* shall be determined through the land use decision process and shall be specified in the conditions of approval.

18.115.080**Modifications or expansions of uses or developments authorized by existing conditional use or special use permits – When use now permitted outright.**

Proposed modifications or expansions to a *use* or *development* authorized by an existing *conditional use* or *special use permit* shall not require an amendment to the existing permit if the *use* is now permitted outright in the zone district in which it is located. [Ord. 98-0026 §§ 1, 2 (KCC 21A.42.160).]

18.115.090**Modifications or expansions of uses authorized by existing conditional use or special use permits – Required findings.**

Modifications or expansions approved by the *department* shall be based on written findings that the proposed modifications or expansions provide the same level of protection for and compatibility with adjacent land *uses* as the original land use permit. [Ord. 98-0026 §§ 1, 2 (KCC 21A.42.170).]

18.115.100**Modifications and expansions – Uses or development authorized by existing conditional use or special use permits.**

A. The *department* may review and approve an expansion of a *use* or *development* authorized by an existing *conditional use* or *special use permit* provided that:

1. The expansion shall conform to all provisions of this title and the original land use permit, except that the project-wide amount of each of the following may be increased up to 10 percent:

- a. Building square footage;
- b. *Impervious surface*;
- c. Parking; or
- d. Building height.

2. No subsequent expansions shall be approved under this subsection if the cumulative amount of such expansion exceeds the percentage prescribed in subsection (A)(1) of this section.

B. A *conditional use permit* shall be required for expansions within a *use* or *development* authorized by an existing *conditional use permit* if the expansions are not consistent with the provisions of subsection (A) of this section.

C. A *special use permit* shall be required for expansions within a *use* or *development* authorized by an existing *special use permit*, if the expansions are not consistent with the provisions of subsection (A) of this section.

D. This section shall not apply to modifications or expansions of telecommunication facilities, the provisions for which are set forth in KMC 18.60 or to modifications or expansions of *nonconformances*, the provisions for which are set forth in KMC 18.100.070. [Ord. 98-0026 §§ 1, 2 (KCC 21A.42.190).]

Chapter 18.120**MASTER PLANS**

Sections:

- 18.120.010 Master plan chapter purpose.
- 18.120.020 Master plans authorized.
- 18.120.030 Master plan contents.
- 18.120.040 Master plan approval process.
- 18.120.045 Approved master plans.
- 18.120.050 Modifications of an approved master plan.
- 18.120.060 Vesting and time limitations.

18.120.010**Master plan chapter purpose.**

This chapter is intended to detail the procedures and responsibilities of the *city* in the processing, consideration and action on proposed *master plans*. *Master plans* are authorized or required for certain *uses* or activities within the comprehensive plan or certain zone districts. These *uses* may have unique characteristics or potential impacts to the community, and require review and opportunity for public comment. A *master plan* may also be requested by an applicant to guide development over a period of years and to clarify vesting rights. It is expected that approval of a *master plan* will guide *development* within the affected area for a period of at least 10 years. *Master plan* approval is also intended to allow quicker review and processing of individual, phased construction projects with greater certainty than would be possible if a *master plan* did not exist. [Ord. 08-0293 § 2.]

18.120.020**Master plans authorized.**

Master plans are authorized or are required as follows:

A. Comprehensive Plan Requirement. Where specified in the Kenmore comprehensive plan land use element as necessary to obtain a comprehensive plan amendment and/or rezone.

B. Zoning – Requirement or Authorization.

1. Parks, Golf Course, or Public and Semi-Public Zones. Master plans may be proposed for permitted or conditionally permitted uses in a phased manner for a minimum 10-year planning period.

2. P-Suffix Conditions. Required to develop allowed *uses* in certain zones with P-suffix conditions pursuant to KMC 18.47.030.

C. Other.

1. Authorized or required in ordinances or *development agreements* approved by the city. [Ord. 08-0293 § 2.]
2. Elected by an applicant.

18.120.030

Master plan contents.

A. *Master plans* shall contain the following information:

1. For properties with *master plans* authorized or required as stated in KMC 18.120.020 except the parks zone and P-suffix conditions:

a. A *master plan* shall provide a general narrative description of all long-term land *uses*, circulation and infrastructure, open space, and development phasing for an area or property to guide future *development*.

b. The *master plan* shall, in a general manner, depict the *site* layout by showing development areas by type of land *use*, circulation patterns, *site* access, utilities, infrastructure, maximum square footage of *uses* (if applicable), and any open space areas and *buffers*.

c. The plan shall also illustrate the relationship between the *site* and adjoining properties.

d. It is intended that *master plan* maps and graphics be developed in a general conceptual manner.

2. *Master plans* for properties included in the parks zone:

a. *City-Owned Parks*. *Master plans* shall consist of *city* parks and recreation functional plans or other legislatively approved conceptual plans.

b. *Noncity-Owned Parks*. *Master plans* shall conform to the requirements in subsection (A)(1) of this section.

c. Any *Property Zoned Parks*. Any single *master plan* proposal submitted to the *city* for approval shall include a *park* or recreation *use* for the overall area included in the *master plan* application.

3. *Master plans* for properties with P-suffix conditions per KMC 18.120.020(B). *Master plans* shall contain the information required in the P-suffix condition.

18.120.040

Master plan approval process.

A. *Master Plan* Approval Process.

1. Comprehensive Plan Requirement. *Master plans* that are required by the Kenmore comprehensive plan land use element as necessary to obtain a comprehensive plan amendment and/or rezone shall be subject to the Type 5 permit process.

2. Zoning Requirement or Authorization.

a. Parks, Golf Course, or Public and Semi-Public Zones.

(1) *City-Owned Property*: The *city* may prepare and amend *master plans* for *city* property subject to *city* council approval.

(2) *Noncity-Owned Property*: Type 4.

b. P-Suffix Condition: Type 4.

3. Other.

a. Authorized or required in ordinances or *development agreements* approved by the city: Consistent with adopting ordinance or *development agreement*, but no less than Type 2 process.

b. Elected by an applicant: Type 4.

B. *Master Plan* Approval Criteria. At a minimum, *master plans* shall be consistent with the review criteria contained in KMC 18.115.050 (same as special use criteria). *Master plans* shall also be consistent with review criteria specified in any applicable P-suffix conditions, ordinance, *development agreements*, or recorded instrument.

C. Consistency with *Master Plan*. All property identified in the *master plan* shall be developed in a manner consistent with the provisions of the *master plan*. [Ord. 09-0304 § 5 (Exh. C); Ord. 08-0293 § 2.]

D. A site with an approved master plan does not require a site plan review pursuant to KMC Chapter 18.105 prior to submittal of building or other development permits.

18.120.045**Approved master plans.**

A. Parks Zone. The following *master plans* have been approved by the *city* as of December 11, 2006, for *city*-owned *park* property. Please contact the *city* for an up-to-date list of approved *master plans* or for *master plans* in progress.

- a. City of Kenmore Parks and Recreation Master Plan, April 2003 (all *city parks* except Northshore Summit).
- b. Conceptual *master plans* as revised and updated in 2006: Wallace Swamp Creek Park, Linwood Park, Northshore Summit Park, Tracey Owen Station, Kenmore (Rhododendron) Park, Moorlands Park.
- B. Bastyr University Master Plan, December 2009, approved by *city* Ordinance 09-0304.
- C. Lakepointe Mixed Use Development Master Plan, August 1998.

18.120.050**Modifications of an approved master plan.**

A. Project sponsors may submit an application(s) to modify approved *master plans*. Modifications that do not substantially change the nature or level of *use* or that do not require a new environmental review may be considered minor amendments and may be approved by the *city manager* as a Type 2 decision or in accordance with the permit process authorized in an ordinance, *development agreement*, or recorded instrument.

B. Modifications that would result in a substantial change of use, or substantially change the nature or level of activity, or that would require the need for additional environmental review, shall be considered a major modification and shall be processed consistent with the permit type required to establish the original *master plan* in KMC 18.120.040 or in accordance with the permit process authorized in an ordinance, *development agreement*, or recorded instrument. [Ord. 08-0293 § 2.]

18.120.060**Vesting and time limitations.**

Unless alternative vesting and time limitations are stated in the approval of a *master plan* and specified in an ordinance, *development agreement*, or recorded instrument as appropriate, the following shall apply:

A. Time Limitations. An approved *master plan* shall remain in effect for a period of not less than 10 years, subject to the following conditions:

- 1. Submittal of biennial status reports to the *city manager* during the term of the *master plan* no later than December 31st of each biennial period;
- 2. Submittal of interim reports to the *city manager* regarding any proposed changes or revisions to the *master plan* implementation schedule no later than December 31st of each biennial period;
- 3. Issuance of construction permits for at least one-half of the new construction projects identified in each phase of the *master plan* implementation schedule no later than the projected completion date for the particular phase.

B. Vesting. *Master plans* shall be vested to the regulations in effect at the time of approval, as specified by ordinance, *development agreement*, or recorded instrument. Such vesting measures shall not preclude the *city* from taking such actions as shall be necessary to protect the public health and safety. [Ord. 08-0293 § 2.]

Chapter 18.125**ENFORCEMENT**

Sections:

- 18.125.010 Purpose.
- 18.125.020 Authority and application.
- 18.125.040 Violations defined.
- 18.125.050 Permit suspension, revocation or modification.
- 18.125.060 Initiation of revocation or modification proceedings.

18.125.010**Purpose.**

The purpose of this chapter is to promote compliance with this title by establishing enforcement authority, defining violations, and setting standards for initiating the procedures set forth in Chapter 1.20 KMC, when violations of this title occur. [Ord. 98-0026 §§ 1, 2 (KCC 21A.50.010).]

18.125.020**Authority and application.**

The *city manager* is authorized to enforce the provisions of this code, any implementing administrative rules, administration, and approval conditions attached to any land use approval, through revocation or modification of permits, or through the enforcement, penalty and abatement provisions of Chapter 1.20 KMC. [Ord. 98-0026 §§ 1, 2 (KCC 21A.50.020).]

18.125.040**Violations defined.**

No building permit or land use approval in conflict with the provisions of this title shall be issued. *Structures* or *uses* which do not conform to this title, except legal *nonconformances* specified in Chapter 18.100 KMC and approved *variances*, are violations subject to the enforcement, penalty and abatement provisions of Chapter 1.20 KMC, including but not limited to:

- A. Establishing a *use* not permitted in the zone in which it is located;
- B. Constructing, expanding or placing a *structure* in violation of *setback*, height and other dimensional standards in this title;
- C. Establishing a permitted *use* without complying with applicable development standards set forth in other titles, ordinances, rules or other laws, including but not limited to, road construction, surface water management, the Fire Code, and rules of the department of public health;
- D. Failing to carry out or observe conditions of land use or permit approval, including contract development standards;
- E. Failing to secure required land use or permit approval prior to establishing a permitted *use*; and
- F. Failing to maintain *site* improvements, such as *landscaping*, parking or drainage control facilities as required by this code or other *city* ordinances. [Ord. 98-0026 §§ 1, 2 (KCC 21A.50.030).]

18.125.050**Permit suspension, revocation or modification.**

A. Any permit, *variance*, or other land use approval issued by the *city* pursuant to this title may be suspended, revoked or modified on one or more of the following grounds:

- 1. The approval was obtained by fraud;
- 2. The approval was based on inadequate or inaccurate information;
- 3. The approval, when given, conflicted with existing laws or regulations applicable thereto;
- 4. An error of procedure occurred which prevented consideration of the interests of persons directly affected by the approval;
- 5. The approval or permit granted is being exercised contrary to the terms or conditions of such approval or in violation of any statute, law or regulation;
- 6. The *use* for which the approval was granted is being exercised in a manner detrimental to the public health or safety;
- 7. The holder of the permit or approval interferes with the *city manager* or any authorized representative in the performance of his or her duties; or
- 8. The holder of the permit or approval fails to comply with any notice and order issued pursuant to Chapter 1.20 KMC.

B. Authority to revoke or modify a permit or land use approval shall be exercised by the decisionmaker, as described in KMC 19.25.020.

18.125.060

Initiation of revocation or modification proceedings.

A. The *city manager* may suspend any permit, *variance* or land use approval issued by any *city* issuing agency and processed by the *department* pending its revocation or modification, or pending a public hearing on its revocation or modification;

B. The issuing agency may initiate proceedings to revoke or modify any permit or land use approval it has issued; and

C. Persons who are aggrieved may petition the issuing agency to initiate revocation or modification proceedings, and may petition the *city manager* to suspend a permit, *variance* or land use approval pending consideration of its revocation or modification. [Ord. 98-0026 §§ 1, 2 (KCC 21A.50.050).]

Title 19

LAND USE POLICIES AND PROCEDURES

Chapters:

- 19.05 General Provisions**
- 19.10 Definitions**
- 19.15 Comprehensive Plan**
- 19.20 Amendment of Comprehensive Plan or of Development Regulations – Public Participation**
- 19.25 Procedures for Land Use Decisions, Public Notice, Hearings and Appeals**
- 19.30 Hearing Examiner**
- 19.35 Environmental Procedures**

Chapter 19.05

GENERAL PROVISIONS

Sections:

19.05.020 Catchline legality.

19.05.020

Catchline legality.

Section captions as used in this title do not constitute any part of the law. [Ord. 98-0027 §§ 1, 2 (KCC 20.04.010).]

Chapter 19.10

DEFINITIONS

Sections:

19.10.003 Scope of chapter.

19.10.005 Applicant.

19.10.010 Area zoning.

19.10.030 City.

19.10.035 City manager.

19.10.040 Comprehensive plan.

19.10.050 Council.

19.10.060 Department.

19.10.070 Development regulations.

19.10.080 Docket.

19.10.085 Emergency amendment.

19.10.105 Hearing examiner.

19.10.110 Reclassification.

19.10.120 Site-specific comprehensive plan land use map amendment.

19.10.130 Subarea plan.

19.10.003

Scope of chapter.

This chapter contains definitions of technical and procedural terms used throughout this title. Defined terms are shown in italics in the text of the title.

19.10.005

Applicant.

“Applicant” means a person who files an application for a permit under this chapter and who is either the owner of the land on which that proposed activity would be located, a contract purchaser, or the authorized agent of such a person.

19.10.010

Area zoning.

“Area zoning” means procedures initiated by the *city* which result in the adoption or amendment of zoning maps on an area-wide basis. This type of zoning is characterized by being comprehensive in nature, deals with distinct communities, specific geographic areas and other types of districts having unified interests within the *city*. Area zoning, unlike a *reclassification*, usually involves many separate properties under various ownerships and utilizes several of the

zoning classifications available to express the *city's* current *comprehensive plan* and *subarea plan* policies in zoning map form. [Ord. 08-0293 § 2; Ord. 06-0255 § 3; Ord. 98-0027 §§ 1, 2 (KCC 20.08.030).]

19.10.030

City.

“City” means the city of Kenmore.

19.10.035

City manager.

“City manager” means the city of Kenmore city manager or his or her designee(s).

19.10.040

Comprehensive plan.

“Comprehensive plan” means the principles, goals, objectives, policies and criteria approved by the *council* to meet the requirements of the Washington State Growth Management Act, and:

- A. As a beginning step in planning for the development of the city;
- B. As the means for coordinating city programs and services;
- C. As policy direction for official regulations and controls;
- D. As a means of promoting the general welfare. [Ord. 08-0293 § 2; Ord. 98-0027 §§ 1, 2 (KCC 20.08.070).]

19.10.050

Council.

“Council” means the Kenmore city council. [Ord. 08-0293 § 2; Ord. 98-0027 §§ 1, 2 (KCC 20.08.090).]

19.10.060

Department.

“Department” means the *city* department or outside agency assigned by the *city manager* to administer a portion of the *city* code. [Ord. 08-0293 § 2; Ord. 98-0027 §§ 1, 2 (KCC 20.08.100).]

19.10.070

Development regulations.

“Development regulations” means the controls placed on development or land use activities by the *city* including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, surfacewater runoff policies, street standards, subdivision ordinances and binding site plan ordinances, together with any amendments thereto. A development regulation includes a zoning map amendment that is related to a *comprehensive plan* map amendment. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in an ordinance by the *city*. [Ord. 08-0293 § 2; Ord. 06-0255 § 5; Ord. 98-0027 §§ 1, 2 (KCC 20.08.105).]

19.10.080

Docket.

“Docket” (noun) means the list of suggested changes to the *comprehensive plan* or *development regulations* maintained by the *department*. “Docket” (verb) means to record with the *department* a suggested change to the *comprehensive plan* or *development regulations*. [Ord. 08-0293 § 2; Ord. 98-0027 §§ 1, 2 (KCC 20.08.107).]

19.10.085

Emergency amendment.

An “emergency amendment” shall be defined as an amendment that is required to the *comprehensive plan* or *development regulations* for the immediate protection of public health, safety, property, or peace. [Ord. 08-0293 § 2; Ord. 06-0255 § 6.]

19.10.105

Hearing examiner.

“Hearing examiner” means the hearing examiner as established by Chapter 19.30 KMC. [Ord. 08-0293 § 2; Ord. 98-0027 §§ 1, 2 (KCC 20.08.120).]

19.10.110

Reclassification.

“Reclassification” means a change in the zone classification on the zoning map pursuant to a Type 4 land use permit decision, where the reclassification is not related to a *comprehensive plan* land use map amendment. [Ord. 08-0293 § 2; Ord. 06-0255 § 7; Ord. 98-0027 §§ 1, 2 (KCC 20.08.160).]

19.10.120

Site-specific comprehensive plan land use map amendment.

“Site-specific comprehensive plan land use map amendment” means an amendment to the *comprehensive plan* land use map which includes one property or a small group of specific properties. [Ord. 08-0293 § 2; Ord. 98-0027 §§ 1, 2 (KCC 20.08.170).]

19.10.130

Subarea plan.

“Subarea plan” means a detailed local land use plan which implements and is an element of the *comprehensive plan* containing specific policies, guidelines and criteria adopted by the *council* to guide development and capital improvement decisions within specific subareas of the *city*. [Ord. 08-0293 § 2; Ord. 06-0255 § 4; Ord. 98-0027 §§ 1, 2 (KCC 20.08.060).]

Chapter 19.15

COMPREHENSIVE PLAN

Sections:

19.15.040 Shoreline management master program.

19.15.040

Shoreline management master program.

The policies, objectives and goals of the shorelines management master program, are adopted as an addendum to the comprehensive plan for the city of Kenmore. As an addendum to the comprehensive plan, such policy statement constitutes the official policy of the city of Kenmore regarding areas of the city subject to shoreline management jurisdiction. [Ord. 98-0027 §§ 1, 2 (KCC 20.12.200).]

Chapter 19.20

AMENDMENT OF COMPREHENSIVE PLAN OR OF DEVELOPMENT REGULATIONS – PUBLIC PARTICIPATION

Sections:

19.20.020 Purpose.
19.20.030 Applicability.
19.20.040 Authority.
19.20.050 Annual amendment process.
19.20.060 Initiation of annual amendment process.
19.20.070 Submittal requirements.
19.20.080 Threshold review criteria.
19.20.090 Amendment decision criteria.

19.20.020

Purpose.

A. This chapter establishes the process and criteria by which the *comprehensive plan* and *development regulations* are amended in accordance with Chapter 36.70A RCW.

B. This chapter also establishes the means of public participation in the *comprehensive plan* and *development regulation* amendment process as required in RCW 36.70A.130(2) and 36.70A.140.

C. This chapter sets forth additional submittal requirements for *comprehensive plan* and *development regulation* amendments in recognition of the additional information and fee requirements of the *comprehensive plan* and *development regulation* amendments. [Ord. 06-0255 § 8.]

19.20.030

Applicability.

A. This chapter establishes a mechanism for the *city* to amend the *comprehensive plan* and *development regulations*.

B. Proposed amendments may be submitted by the mayor, city council, planning commission, city staff, or any interested private parties, including citizens, *applicants*, or government agencies. [Ord. 06-0255 § 8.]

19.20.040

Authority.

A. The *city manager* shall have the authority to administer this chapter.

B. The planning commission shall have the authority to review and study proposed amendments to the *comprehensive plan* and *development regulations* that are included in a city council- approved annual *docket* work

program for each year. The planning commission shall hold a public hearing, deliberate, and make recommendations to the city council on said proposals.

C. The city council shall have the authority to make a threshold review of each proposal to amend the *comprehensive plan* and *development regulations* and establish the planning commission's annual *docket* work program for each year. The city council shall have the authority to make a final decision upon applications pursuant to this section after the planning commission has provided a recommendation to the city council. [Ord. 06-0255 § 8.]

19.20.050

Annual amendment process.

A. *Comprehensive plan* amendments are considered by the city council no more frequently than once a year as part of the amendment cycle established in this chapter, except that the city council may consider amendments more frequently or outside the annual *docket* amendment cycle detailed in this section under the following circumstances:

1. The city council finds an *emergency amendment* is required as defined in KMC 19.10.085;
2. The initial adoption of a *subarea plan* that does not modify the *comprehensive plan* policies and designations applicable to the subarea;
3. The adoption or amendment of a shoreline master program under the procedures set forth in Chapter 90.58 RCW;
4. The amendment of the capital facilities element of the *comprehensive plan* that occurs concurrently with the adoption or amendment of the city budget; and
5. The amendment is required as a result of an order of the growth management hearings board created in RCW 36.70A.250 or a court with jurisdiction.

B. *Development regulations* consistent with the *comprehensive plan* may be considered outside of the annual amendment process at the discretion of the city council, so long as the amendment is considered through a public participation process consistent with RCW 36.70A.130(2). *Development regulation* amendments associated with *comprehensive plan* amendments should be processed with *comprehensive plan* amendments whenever practicable.

C. Zoning *reclassification* requests as defined in KMC 19.10.110 are subject to the Type 4 permit process in Chapter 19.25 KMC. [Ord. 06-0255 § 8.]

19.20.060

Initiation of annual amendment process.

A. The *comprehensive plan* and *development regulations* may be amended pursuant to this chapter, no more frequently than once a year as part of the amendment cycle established in this chapter, except as provided in KMC 19.20.050.

B. Application Initiation and Deadline.

1. The public shall be made aware of the deadline to submit proposed amendments to the *comprehensive plan* and *development regulations* by means of two publications in a newspaper of general circulation in the city, with the first notice published at least 30 days prior to the deadline.
2. The deadline for submitting an application for amendment pursuant to this chapter is December 1st of each year, or the next business day if December 1st falls on a Saturday or Sunday.

C. Submittal Requirements. Only applications that have fulfilled the submittal requirements of KMC 19.20.070 by the deadline in subsection (B) of this section shall be considered for the next annual amendment process.

D. Prescreening/Threshold Decision.

1. The *department* shall review all complete applications submitted by the deadline set forth in subsection (B) of this section and issue a recommendation on each application submitted based upon threshold criteria set forth in KMC 19.20.080 by the last city council meeting in January of each year.
2. The city council shall make a threshold decision on each application submitted and reviewed by the last city council meeting in February of each year.
3. Threshold decisions and recommendations shall be for one of the following:
 - a. Accept application for review by the planning commission or other city council- appointed advisory body in the current amendment cycle;
 - b. Recommend delay of the amendment to the next amendment cycle; or
 - c. Denial of amendment based upon criteria set forth in KMC 19.20.080 or other findings of fact.

E. Planning Commission Review and Public Participation.

1. The planning commission or other advisory body approved by the city council shall review all amendments approved by the city council pursuant to subsection (D)(3)(a) of this section and shall make such amendments a priority of their work program for the year. The planning commission or other advisory body shall hold study sessions on proposed amendments, as deemed necessary in order to make an informed decision.

2. Public Participation Plan. Public participation shall consist of, at minimum, a public hearing before the planning commission. The *city manager* is further authorized to establish additional public participation for a particular matter at the beginning of the annual *docket* process, utilizing types of participation including but not limited to: public meetings, workshops, and/or open houses.

F. Public Hearing.

1. The planning commission or other advisory body approved by the city council shall hold the public hearing on the proposed amendments each year. Public notice shall be given as set forth in subsection (F)(2) of this section.

2. Public Notice of Public Hearing.

a. Notice of a public hearing on the annual cycle of amendments shall be published in a newspaper of general circulation in the *city* and shall be posted at City Hall and on the *city* website within 14 calendar days of the public hearing.

b. Additional Public Notice Requirements for Site-Specific Amendments. In addition to the public notice requirements of subsection (F)(2)(a) of this section, *applicants* for *site-specific comprehensive plan land use map amendments* shall also post the site and mail notice to residences and employers within 1,000 feet of the subject site.

3. Recommendation to City Council. Upon consideration of all the information presented to the planning commission, the planning commission shall deliberate after the public hearing and shall make a recommendation to the city council based upon the criteria found in KMC 19.20.090.

4. Second Public Hearing. If the planning commission recommends a modification which was not within the scope of the alternatives available at the public hearing for public comment, the planning commission shall conduct a new public hearing on the proposal as modified.

G. Final Decision.

1. City Council Decision. The city council, upon receipt of the planning commission's recommendations for the annual amendment cycle, shall make the final decision on proposed amendments consistent with criteria contained in KMC 19.20.090.

2. Circumstances Requiring Public Hearing. The city council may, in its discretion, hold an additional public hearing on the planning commission's recommendations for the annual amendment cycle. However, if the city council recommends a modification which was not within the scope of the alternatives available at the planning commission hearing for public comment, the city council shall hold a public hearing on the proposal as modified prior to final decision.

H. Pursuant to RCW 36.70A.106, the *department* shall notify the state of its intent to adopt amendments to the *comprehensive plan* or to *development regulations* at least 60 days prior to the city council's final adoption of the proposal, except for regulations or amendments which are procedural, ministerial or required to address an emergency.

I. Within 10 days of final adoption, the city clerk shall transmit to the state any adopted plan, amendment to the *comprehensive plan* or *development regulation*. [Ord. 06-0255 § 8.]

19.20.070

Submittal requirements.

Applications for the annual cycle of *comprehensive plan* and *development regulation* amendments shall include the following submittal requirements:

A. Submittal requirements enumerated in KMC 19.25.040 that are not waived by the *city manager*.

B. An application form provided by the *department* and completed by the *applicant* that includes, at minimum, the *applicant's* name, address, contact information, and proposed amendment.

1. For *site-specific comprehensive plan land use map amendments*, the application form shall also include the following information: property address or location, parcel number(s), existing and proposed future land use designation and zoning designation, and property owner's signature.

C. A completed environmental checklist, if required by Chapter 19.35 KMC.

D. A narrative clearly stating the proposal and what the amendment is attempting to accomplish.

1. For *site-specific comprehensive plan land use map amendments*, the narrative shall be accompanied by a vicinity map drawn to scale clearly showing the subject site and its surroundings.

E. A narrative indicating how the proposed amendment meets the criteria outlined in KMC 19.20.080 and 19.20.090.

F. An application fee pursuant to the *city's* current fee schedule or a written request for a fee waiver.

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

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

3. *City-sponsored proposals exempt: city-sponsored proposals are exempt from application fees.*

G. Unless one or more of the submittal requirements outlined in this section is waived by the *city manager*, then an application that does not contain all of the submittal requirements so enumerated by the deadline set forth in KMC 19.20.060(B) shall be considered incomplete and ineligible for consideration in the annual amendment cycle. [Ord. 08-0288 § 1; Ord. 06-0255 § 8.]

19.20.080

Threshold review criteria.

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

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

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

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

D. All of the following:

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

2. The public interest would best be served by considering the proposal in the current year, rather than delaying consideration to a later *subarea plan* review or plan amendment process. [Ord. 06-0255 § 8.]

19.20.090

Amendment decision criteria.

All proposed amendments, whether or not considered through the annual amendment process, must meet the decision criteria in subsection (A) of this section. If the proposal is a *site-specific comprehensive plan land use map amendment*, then it must meet the decision criteria of subsections (A) and (B) of this section. If the proposal is an amendment to *development regulations*, then it must meet the decision criteria of subsections (A) and (C) of this section.

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

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

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

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

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

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

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

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

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

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

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

4. The proposed amendment is compatible with the surrounding development pattern; and
 5. The proposed amendment meets the zoning map decision criteria of KMC 19.30.210 and 19.30.220.
- C. Additional Review Criteria for *Development Regulations*.
1. The proposed amendment is consistent with the policies, objectives, and goals of the *comprehensive plan*; and
 2. The proposed amendment does not duplicate or conflict with other portions of the Kenmore Municipal Code.
- [Ord. 06-0255 § 8.]

Chapter 19.25

PROCEDURES FOR LAND USE DECISIONS, PUBLIC NOTICE, HEARINGS AND APPEALS

Sections:

- 19.25.010 Chapter purpose.
- 19.25.020 Classifications of land use decision processes.
- 19.25.030 Preapplication conferences.
- 19.25.040 Application requirements.
- 19.25.050 Determination of completeness.
- 19.25.055 Vesting.
- 19.25.060 Notice of application.
- 19.25.065 Public notice boards.
- 19.25.080 Applications – Modifications to proposal.
- 19.25.083 Application cancelled for inactivity.
- 19.25.085 Type 2 decisions.
- 19.25.090 Notice of decision.
- 19.25.092 Appeals.
- 19.25.095 Applications – Limitations on refiling of applications.
- 19.25.100 Permit issuance.

19.25.010

Chapter purpose.

The purpose of this chapter is to establish standard procedures for land use decisions, including public notice, hearings and appeals. These procedures are designed to promote timely and informed public participation in discretionary land use decisions; eliminate redundancy in the application, permit review, hearing and appeal processes; provide for uniformity in public notice procedures; minimize delay and expense; and result in development approvals that implement the policies of the *comprehensive plan*. [Ord. 08-0293 § 2; Ord. 06-0255 § 9; Ord. 98-0027 §§ 1, 2 (KCC 20.20.010).]

19.25.020

Classifications of land use decision processes.

A. Land use decisions are classified into five types, based on the amount of discretion associated with each decision. Procedures for the five different types are distinguished according to who makes the decision, whether public notice is required, whether a public hearing is required before a decision is made and whether administrative appeals are provided. The types of land use decisions are listed in Exhibit A of this section.

1. Type 1 decisions are made by the *city manager*. Type 1 decisions are nonappealable administrative decisions that require the exercise of little or no administrative discretion. Public notice is not required for Type 1 decisions.

2. Type 2 decisions are made by the *city manager*. Type 2 decisions are discretionary decisions that are subject to administrative appeal.

3. Type 3 decisions are quasi-judicial decisions made by the *hearing examiner* following an open record hearing. Type 3 decisions may be appealed directly to King County superior court, pursuant to Chapter 36.70C RCW, the Land Use Petition Act, based on the record established by the *hearing examiner*.

4. Type 4 decisions are quasi-judicial decisions made by the city council based on the record established by the *hearing examiner*.

5. Type 5 decisions are legislative decisions made by the city council.

B. Except as provided in KMC 19.35.160 and 16.35.060 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.

C. Certain development proposals are subject to additional procedural requirements beyond the standard procedures established in this chapter.

D. Land use permits that are categorically exempt from review under SEPA do not require a threshold determination (determination of nonsignificance (DNS) or determination of significance (DS)). For all other projects, the SEPA review procedures in Chapter 19.35 KMC are supplemental to the procedures in this chapter.

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> ; no further administrative appeal ¹	Home industry; short subdivision; preliminary short subdivision revision; short plat alteration; zoning variance; conditional use permit; shoreline substantial development permit; site plan review for uses allowed by zone; communication facilities permit under KMC Chapter 18.60; 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; 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; 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 RCW.	<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.

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 RCW 43.21C (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 *re-classifications* 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 KMC Chapter 19.20. 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.

[Ord. 08-0293 § 2; Ord. 06-0255 § 10; Ord. 04-0194 §§ 1, 2; Ord. 03-0176 § 2; Ord. 02-0146 § 1; Ord. 98-0039 § 1; Ord. 98-0027 §§ 1, 2 (KCC 20.20.020).]

19.25.030

Preapplication conferences.

A. Prior to filing a permit application for a Type 1 decision for new commercial or multifamily development, for a change of use and/or classification, for a portable/modular structure, or for moving a building, the *applicant* shall contact the *department* to schedule a preapplication conference which shall be held prior to filing the application, except as provided herein.

Prior to filing a permit application requiring a Type 2, 3 or 4 decision, the *applicant* shall contact the *department* to schedule a preapplication conference which shall be held prior to filing the application, except as provided herein. The purpose of the preapplication conference is to review and discuss the application requirements with the *applicant* and provide comments on the development proposal.

B. The preapplication conference shall be scheduled by the *department*, at the request of an *applicant*, and shall be held in a timely manner, within 30 days from the date of the *applicant's* request.

C. The *city manager* may waive the requirement for a preapplication conference if it is determined to be unnecessary for review of an application.

D. Nothing in this section shall be interpreted to require more than one preapplication conference or to prohibit the *applicant* from filing an application if the *department* is unable to schedule a preapplication conference within 30 days following the *applicant's* request.

E. At or subsequent to a preapplication conference, the *department* may issue a preliminary determination that a proposed development is not permissible under applicable *city* policies or regulations. In that event, the *applicant* shall have the option to appeal the preliminary determination to the *hearing examiner*, as provided for in KMC Chapter 19.30, as an alternative to proceeding with a complete application. Mailed and published notice of the appeal shall be provided for as in KMC 19.25.060.E(2) and (3). [Ord. 08-0293 § 2; Ord. 98-0027 §§ 1, 2 (KCC 20.20.030).]

F. A preapplication conference also may be held for other Type 1 land use decisions, if requested by an *applicant* or required by the *department*.

19.25.040

Application requirements.

A. The *department* shall not commence review of any application for a land use decision until the *applicant* has submitted the materials and fees specified for complete applications.

B. The *department* shall specify the application requirements for Type 1 and Type 5 land use decisions on forms provided to the public.

C. For Type 2, 3 and 4 land use decisions, the *applicant* shall file the following information with the *department*:

1. A complete permit application, with supporting affidavits, on forms provided by the *department*;
2. Information specified on the application checklist provided by the *department* for the requested decision(s); and
3. Any additional information or materials that the *department* specifies at the pre-application meeting.

D. The *applicant* may file a single application form for all Type 2, 3 and 4 land use decisions requested for the development proposal at the time the application is filed.

E. A permit application is complete for purposes of this section when it meets the procedural submission requirements of the *department* and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the *department* from requesting additional information or studies either at the time of notice of completeness or subsequently if new or additional information is required or substantial changes in the proposed action occur, as determined by the *department*.

F. The *city manager* may waive any specific submittal requirements that are determined to be unnecessary for review of an application.

G. The *applicant* shall attest by written oath to the accuracy of all information submitted for an application.

19.25.050

Determination of completeness.

A. Within 28 calendar days following receipt of a land use permit application, the *department* shall mail or provide written notice to the *applicant* that the application is either complete or incomplete. If the application is incomplete, the notice shall state with specificity what is necessary to make the application complete. To the extent known by the *department*, the notice shall identify other agencies of local, state, regional or federal governments that may have jurisdiction over some aspects of the development proposal.

B. An application shall be deemed complete under this section if the *department* does not provide written notice to the *applicant* that the application is incomplete within the 28-day period as provided herein.

C. If the application is incomplete and the *applicant* submits the additional information requested by the *department*, the *department* shall notify the *applicant* in writing within 14 calendar days whether the application is complete or what additional information specified by the *department* as provided in subsection (A) of this section is necessary to make the application complete. An application shall be deemed complete if the *department* fails to provide written notice to the *applicant* within the 14-day period that the application is incomplete.

D. The *department's* determination of completeness as provided in subsection (A) or (C) of this section, or the failure of the *department* to provide such determination as provided in subsection (B) or (C) of this section, shall cause an application to be conclusively deemed to be complete and vested as provided in this chapter.

19.25.055

Vesting.

A. Applications for Type 1, 2, and 3 land use decisions, except those which seek variance from or exception to land use regulations, shall be considered under the zoning and other land use control ordinances in effect on the date a complete application is filed meeting all of the requirements of this chapter. The *department's* issuance of a determination of completeness as provided in this chapter, or the failure of the *department* to provide such a notice as provided in this chapter, shall cause an application to be conclusively deemed to be vested as provided herein.

B. Supplemental information required after vesting of a complete application shall not affect the validity of the vesting for such application.

C. Vesting of an application does not vest any subsequently required permits, nor does it affect the requirements for vesting of subsequent permits or approvals. [Ord. 08-0293 § 2; Ord. 04-0194 § 5; Ord. 98-0027 §§ 1, 2 (KCC 20.20.070).]

19.25.060

Notice of application.

A. A notice of application shall be provided to the public for all land use permit applications requiring Type 2, 3 or 4 decisions or Type 1 decisions subject to SEPA.

B. A public comment period of at least 21 calendar days shall be provided, except as otherwise provided in WAC 173-27-110 and WAC 173-27-120 regarding shoreline permits and RCW 58.17.215 regarding subdivision alterations. The public comment period shall commence on the third calendar day following the *department's* mailing of the notice of application as provided for in subsection (E) of this section.

C. All required notices of application shall contain the following information:

1. The file number;

2. The name of the *applicant*;
 3. The date of application, the date of the determination of completeness and the date of the notice of application;
 4. A description of the project, the location, a list of the permits included in the application and the location where the application and any environmental documents or studies can be reviewed;
 5. A site plan on eight-and-one-half-by-14-inch paper, if applicable;
 6. The procedures and deadline for filing comments, requesting notice of any required hearings and any appeal procedure;
 7. The date, time, place and type of hearing, if applicable and scheduled at the time of notice;
 8. The identification of other permits not included in the application to the extent known;
 9. The identification of existing environmental documents that evaluate the proposed project; and
 10. A statement of the preliminary determination, if one has been made, of those *development regulations* that will be used for project mitigation and of consistency with applicable *city* plans and regulations.
- D. If the optional DNS process under KMC 19.35.100 is used, the notice of application shall identify the SEPA comment period and other information as required by WAC 197-11-355.
- E. Within 14 calendar days of the determination of completeness for the application, the notice of application shall be:
1. Posted at the project site on one or more public notice boards as provided in KMC 19.25.065;
 2. Mailed by first class mail as follows:
 - a. To owners of record of property in an area within 1000 feet of the site, but the area shall be expanded as necessary to send mailed notices to at least 20 different property owners;
 - b. To the State Department of Transportation, if the site adjoins a state highway;
 - c. To the affected tribes;
 - d. To any agency or community group which the *department* may identify as having an interest in the proposal;
 - e. For preliminary plats only, to all cities within one mile of the proposed preliminary plat, and to all airports within two miles of the proposed preliminary plat.
 - f. For residential uses of ten or more dwelling units only, to affected school districts.
 3. Published in the *city's* official newspaper of record.
- F. An affidavit of posting shall be submitted to the *department* by the *applicant* within 14 calendar days following the *department's* determination of completeness to allow continued processing of the application by the *department*.
- G. Mailed notice shall be considered supplementary to posted notice and be deemed satisfactory despite the failure of one or more owners to receive mailed notice.

19.25.065

Public notice boards.

- A. Public notice boards shall be installed by the *applicant* for Type 2, 3 and 4 land use decisions or Type 1 decisions subject to SEPA within 14 days following the *department's* determination of completeness as follows:
1. A single notice board shall be installed for a project:
 - a. At the midpoint of the site street frontage or as otherwise directed by the *department* for maximum visibility;
 - b. Five feet inside the street property line unless otherwise approved by the *department*;
 - c. So that the top of the notice board is between seven and nine feet above grade; and
 - d. Where it is completely visible to pedestrians;
 2. Additional notice boards may be required when:
 - a. The site does not abut a public street;
 - b. A large site abuts more than one public street; or
 - c. The *department* determines that additional notice boards are necessary to provide adequate public notice;
 3. Notice boards shall be:
 - a. Maintained in good condition by the *applicant* during the notice period through the time of the final *city* decision on the proposal, including the expiration of any applicable appeal periods;

b. Removed within 14 calendar days after the end of the administrative appeal period for Type 2 decisions and within 14 calendar days after the final *city* decision on the application for Type 3 and 4 decisions or Type 1 decisions subject to SEPA;

4. Removal of the notice board before the end of the time period specified in subsection 3.b. of this section may be cause for discontinuance of *city* review or extension of the appeal period until the notice board is replaced and remains in place for the specified time period;

5. Notice boards shall be constructed and installed in accordance with specifications promulgated by the *department*.

19.25.080

Applications – Modifications to proposal.

A. Modifications required by the *city* to a pending application shall not be deemed a new application.

B. An *applicant*-requested modification occurring either before or after issuance of the permit shall be deemed a new application when such modification would result in a substantial change in a project's review requirements, as determined by the *department*. [Ord. 08-0293 § 2; Ord. 98-0027 §§ 1, 2 (KCC 20.20.080).]

19.25.083

Application cancelled for inactivity

An application for a decision under this chapter may be cancelled for inactivity if an *applicant* fails to respond to the *department's* written request for revisions, corrections, or additional information within 90 days of the date of request. This written request shall include clear notice to the *applicant* that this cancellation may occur. The *department* may extend the response period beyond 90 days if, within the original 90-day time period, the *applicant* provides and subsequently adheres to an approved schedule with specific target dates for submitting the full revisions, corrections, or other information needed by the *department*.

19.25.085

Type 2 decisions.

A. Type 2 land use decisions shall be based upon compliance with the development standards and approval criteria for the requested decision.

B. The written decision contained in the record shall show:

1. Facts, findings and conclusions supporting the decision and demonstrating compliance with the applicable decision criteria; and

2. Any conditions and limitations imposed, if the request is granted.

C. Rules. The *city manager* shall keep a public record of his or her actions, finding, waivers and determinations. [Ord. 98-0026 §§ 1, 2 (KCC 21A.42.080).]

19.25.090

Notice of decision.

The *department* shall provide notice in a timely manner of the final decision on Type 2, 3, and 4 land use decisions or Type 1 decisions subject to SEPA, including the threshold determination, if any, and the procedures for administrative appeals, if applicable. Notice shall be provided to the *applicant*, to the Department of Ecology and Attorney General as provided in Chapter 90.58 RCW (Shoreline Management Act), and to any person who, prior to the decision, had requested notice of the decision or submitted comments on the application. The notice of decision shall be posted on the public notice board(s) as provided in KMC 19.25.065 and an affidavit of posting shall be submitted to the *department* by the *applicant* within 6 calendar days following the *department's* mailing of the notice.

19.25.092

Appeals.

Except for shoreline permits which are appealable to the State Shorelines Hearings Board, all notices of appeal to the *hearing examiner* of Type 2 land use decisions made by the *city manager* shall be filed within 21 calendar days from the date of issuance of the notice of decision as provided in KMC 19.30.080. A notice of appeal shall include a

statement of appeal in accordance with KMC 19.30.080(B). [Ord. 08-0293 § 2; Ord. 06-0255 § 13; Ord. 04-0194 § 6; Ord. 03-0176 § 4; Ord. 00-0095 § 1(A); Ord. 98-0027 §§ 1, 2 (KCC 20.20.090).]

19.25.095

Applications – Limitations on refiling of applications.

Upon denial by the *hearing examiner* or *council* of a zone *reclassification* or a special use permit, no new application for substantially the same proposal shall be accepted within one year from the date of denial. [Ord. 98-0026 §§ 1, 2 (KCC 21A.40.070).]

19.25.100

Permit issuance.

A. Final decisions by the *city* on all permits and approvals subject to the procedures of this chapter shall be issued within 120 calendar days from the date the *applicant* is notified by the *department* pursuant to this chapter that the application is complete.

The following periods shall be excluded from this 120-day period:

1. Any period of time during which the *applicant* has been requested by the *department* or *hearing examiner* to correct plans, perform required studies or provide additional information, including street variances and adjustments required under Chapter 13.35 KMC. The period shall be calculated from the date of notice to the *applicant* of the need for additional information until the earlier of the date the *city* advises the *applicant* that the additional information satisfies the *city's* request, or 14 calendar days after the date the information has been provided. If the *city* determines that the correction, study or other information submitted by the *applicant* is insufficient, it shall notify the *applicant* of the deficiencies and the procedures of this section shall apply as if a new request for information had been made.

a. The *department* shall set a reasonable deadline for the submittal of corrections, studies or other information when requested, and shall provide written notification to the *applicant*. An extension of such deadline may be granted upon submittal by an *applicant* of a written request providing satisfactory justification of an extension.

b. Failure by the *applicant* to meet such deadline shall be cause for the *department* to cancel/deny the application.

c. When granting a request for a deadline extension, the *department* shall give consideration to the number of days between receipt by the *department* of a written request for a deadline extension and the mailing to the *applicant* of the *department's* decision regarding that request.

2. The period of time, as set forth in KMC 19.35.090, during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW.

3. A period of no more than 90 calendar days for an open record appeal hearing by the *hearing examiner* on a Type 2 land use decision.

4. Any period of time during which an *applicant* fails to post the property, if required by this chapter, following the date notice is required until an affidavit of posting is provided to the *department* by the *applicant*.

5. Any time extension mutually agreed upon by the *applicant* and the *department*.

B. The time limits established in this section shall not apply if a proposed development:

1. Requires an amendment to the *comprehensive plan* or a *development regulation*;

2. Requires the siting of an essential public facility as provided for in RCW 36.70A.200; or

3. Is substantially revised by the *applicant*, when such revisions will result in a substantial change in a project's review requirements, as determined by the *department*, in which case the time period shall start from the date at which the revised project application is determined to be complete.

C. If the *department* is unable to issue its final decision within the time limits established by this section, it shall provide written notice of this fact to the project *applicant*. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of final decision.

Chapter 19.30**HEARING EXAMINER****Sections:**

- 19.30.010 Chapter purpose.
- 19.30.020 Office created.
- 19.30.030 Appointment.
- 19.30.040 Type 3 decisions.
- 19.30.050 Type 4 recommendations to the council.
- 19.30.060 Expeditious processing.
- 19.30.070 Appeals.
- 19.30.080 Notice of appeal to hearing examiner – Filing.
- 19.30.090 Dismissal of untimely appeals.
- 19.30.100 Expeditious processing of appeals.
- 19.30.120 Quasi-judicial powers.
- 19.30.130 Freedom from improper influence.
- 19.30.140 Public hearing.
- 19.30.150 Consolidation of hearings.
- 19.30.160 Prehearing conference.
- 19.30.170 Report by department.
- 19.30.180 Notice.
- 19.30.190 Rules and conduct of hearings.
- 19.30.200 Case management techniques.
- 19.30.210 Hearing examiner findings.
- 19.30.220 Additional hearing examiner findings – Reclassifications and shoreline environment redesignations.
- 19.30.230 Additional hearing examiner findings – Preliminary subdivisions.
- 19.30.240 Additional hearing examiner findings – Master plans, site plan reviews, and special uses.
- 19.30.250 Written decisions - Appeals.
- 19.30.260 Voluntary mediation.

19.30.010**Chapter purpose.**

The purpose of this chapter is to provide a system of considering and applying regulatory devices which will best satisfy the need to expand the principles of fairness and due process in public hearings. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.010).]

19.30.020**Office created.**

The office of hearing examiner is created. The hearing examiner shall act on behalf of the *city* in considering and applying adopted *city* policies and regulations as provided herein. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.020).]

19.30.030**Appointment.**

The *city manager* is authorized to appoint a hearing examiner(s) and to execute the necessary contract documents as appropriate. [Ord. 98-0027 § 5.]

19.30.040**Type 3 decisions.**

A. The hearing examiner shall receive and examine available information, conduct open record public hearings and prepare records and reports thereof, and issue decisions on Type 3 land use permit applications, including findings and conclusions, based on the issues and evidence in the record. The decision of the hearing examiner on Type 3 land use

permit applications shall be appealable directly to the King County superior court, pursuant to Chapter 36.70C RCW, the Land Use Petition Act, on the record established by the hearing examiner.

B. The hearing examiner's decision may be to grant or deny the application, or the hearing examiner may grant the application with such conditions, modifications and restrictions as the hearing examiner finds necessary. [Ord. 98-0039 § 1; Ord. 98-0027 §§ 1, 2 (KCC 20.24.072).]

19.30.050

Type 4 recommendations to the council.

A. The hearing examiner shall receive and examine available information, conduct open record public hearings and prepare records and reports thereof and issue recommendations, including findings and conclusions to the *council* based on the issues and evidence in the record in the following cases:

1. All Type 4 land use decisions;
2. Other applications that the *council* may prescribe by ordinance.

B. The hearing examiner's recommendation may be to grant or deny the application, or the hearing examiner may recommend that the *council* adopt the application with such conditions, modifications and restrictions as the hearing examiner finds necessary. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.070).]

19.30.060

Expeditious processing.

A. Hearings on Type 3 or Type 4 applications shall be scheduled by the hearing examiner to ensure that final decisions are issued within the time periods provided in KMC 19.25.100.

B. In all matters where the hearing examiner holds a hearing on a Type 3 or Type 4 application, the hearing shall be completed and the hearing examiner's written report and decision or recommendation issued within 14 calendar days from the date the hearing closes, excluding any time required by the *applicant* or the *department* to obtain and provide additional information requested by the hearing examiner and necessary for action on the application consistent with applicable laws and regulations. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.098).]

19.30.070

Appeals.

A. The hearing examiner shall receive and examine available information, conduct open record public hearings and prepare records and reports thereof, and issue final decisions, including findings and conclusions, based on the issues and evidence in the record, which shall be appealable to superior court, or to other designated authority in the following cases:

1. Appeals of all Type 2 land use decisions with the exception of appeals of shoreline permits including shoreline variances and conditional uses which are appealable to the State Shoreline Hearings Board;
2. Appeals from notices of violation issued pursuant to Chapter 1.20 KMC;
3. Appeals from decisions regarding the abatement of a nonconformance;
4. Appeals from decisions of the *city manager* on requests for rate adjustments to surface and stormwater management rates and charges;
5. Appeals from police department seizures and intended forfeitures, when properly designated by the chief law enforcement officer of that department as provided in RCW 69.50.505;
6. Appeals from notices and certifications of junk vehicles to be removed as a public nuisance as provided in KMC Title 18;
7. Appeals from the *department's* final decisions regarding transportation concurrency, impact fees and intersection standards provisions of Chapter 12.75 KMC;
8. Appeals under KMC Chapter 19.35 (the State Environmental Policy Act – SEPA);
9. Appeals of decisions for the licensing of adult cabarets and adult retail businesses;
10. Appeals from written interpretations of the zoning code under KMC 18.10.070;
11. Appeals of flood hazard area boundaries under KMC 16.40.140;
12. Appeals from a preliminary determination that a proposed development is not permissible under KMC 19.25.030; and
13. Other appeals which the *council* may prescribe by ordinance.

B. The hearing examiner's decision may be to grant or deny the application or appeal, or the hearing examiner may grant the application or appeal with such conditions, modifications and restrictions as the hearing examiner finds necessary. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.080).]

C. The process for appeals shall be as specified in this chapter, unless otherwise described in the specific appeals provisions of other chapters of the KMC, including KMC Chapter 1.20, Code Enforcement.

19.30.080

Notice of appeal to hearing examiner – Filing.

A. Except as otherwise provided herein, all notices of appeal to the hearing examiner shall be filed with the city clerk.

B. The statement of appeal required as part of the notice of appeal shall identify the decision being appealed and the alleged errors in that decision. Further, the statement of appeal shall state specific reasons why the decision should be reversed or modified, state the harm suffered or anticipated by the appellant, and state the relief sought. The scope of an appeal shall be based principally on matters or issues raised in the statement of appeal.

C. Failure to timely file a notice of appeal, or appeal fee deprives the hearing examiner of jurisdiction to consider the appeal. [Ord. 00-0095 § 1(B), (C), (D); Ord. 98-0027 §§ 1, 2 (KCC 20.24.090).]

19.30.090

Dismissal of untimely appeals.

On its own motion, or on the motion of a party, the hearing examiner shall dismiss an appeal for untimeliness or lack of jurisdiction. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.095).]

19.30.100

Expeditious processing of appeals.

A. Appeals shall be processed by the hearing examiner as expeditiously as possible, giving appropriate consideration to the procedural due process rights of the parties. In every appeal heard by the hearing examiner pursuant to KMC 19.30.070, the appeal process, including a written decision, shall be completed within 90 days from the date the hearing examiner's office is notified of the filing of a notice of appeal pursuant to KMC 19.30.080. When reasonably necessary to enable the attendance of all necessary parties at the hearing, or the production of evidence, or to otherwise assure that due process is afforded and the objectives of this chapter are met, this time period may be extended by the hearing examiner at the hearing examiner's discretion for an additional 30 days. With the consent of all parties, the time periods may be extended indefinitely. In all such cases, the reason for such extension shall be stated in the hearing examiner's recommendation or decision. Failure to complete the hearing process within the stated time shall not terminate the jurisdiction of the hearing examiner.

B. Unless a longer period is agreed to by the parties, or the hearing examiner determines that the size and scope of the project is so compelling that a longer period is required, a public hearing shall occur within 45 calendar days from the date the office of the hearing examiner is notified that a complete statement of appeal has been filed. Where the hearing examiner has determined that the size and scope warrant an extension, this time period may be extended by the hearing examiner at the hearing examiner's discretion for not more than 20 calendar days. The reason for the extension shall be stated in the hearing examiner's decision. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.097).]

19.30.120

Quasi-judicial powers.

The hearing examiner may also exercise administrative powers and such other quasi-judicial powers as may be granted by city ordinance. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.110).]

19.30.130

Freedom from improper influence.

Individual *council* members or any other person shall not interfere with or attempt to interfere with the hearing examiner in the performance of his or her designated duties. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.120).]

19.30.140**Public hearing.**

When it is found that an application meets the filing requirements of the *department* or an appeal meets the filing rules, it shall be accepted and a date assigned for public hearing. If for any reason testimony on any matter set for public hearing, or being heard, cannot be completed on the date set for such hearing, the matter shall be continued to the soonest available date. A matter should be heard, to the extent practicable, on consecutive days until it is concluded. For purposes of proceedings identified in KMC 19.30.050, the public hearing by the hearing examiner shall constitute the hearing by the *council*. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.130).]

19.30.150**Consolidation of hearings.**

Whenever a project application includes more than one *city* permit, approval or determination for which a public hearing is required or for which an appeal is provided pursuant to this chapter, the hearings and any such appeals may be consolidated into a single proceeding before the hearing examiner pursuant to KMC 19.25.020. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.140).]

19.30.160**Prehearing conference.**

A prehearing conference may be called by the hearing examiner pursuant to this chapter upon the request of a party, or on the hearing examiner's own motion. A prehearing conference shall be held in every appeal brought pursuant to this chapter if timely requested by any party. The prehearing conference shall be held at such time as ordered by the hearing examiner, but not less than 14 calendar days prior to the scheduled hearing with not less than seven calendar days' notice to those who are then parties of record to the proceeding. The purpose of a prehearing conference shall be to identify to the extent possible, the facts in dispute, issues, laws, parties and witnesses in the case. In addition the prehearing conference is intended to establish a timeline for the presentation of the case. The hearing examiner shall establish rules for the conduct of prehearing conferences.

Any party who does not attend the prehearing conference, or anyone who becomes a party of record after notice of the prehearing conference has been sent to the parties, shall nevertheless be entitled to present testimony and evidence to the hearing examiner at the hearing. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.145).]

19.30.170**Report by department.**

When an application or appeal has been set for public hearing, the *department* shall coordinate and assemble the reviews of other departments and governmental agencies having an interest in the application or appeal and shall prepare a report summarizing the factors involved and the *department* findings and recommendation or decision. At least 14 calendar days prior to the scheduled hearing, the report, and in the case of appeals any written appeal arguments submitted to the *city*, shall be filed with the hearing examiner. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.150).]

19.30.180**Notice.**

Notice of the time and place of any hearing on an application or appeal before the hearing examiner pursuant to this chapter shall be mailed by first class mail at least 14 calendar days prior to the scheduled hearing date to all persons who commented on the application or requested notice of the hearing and all owners of record of property in an area within 1000 feet of the site, although the area shall be expanded as necessary to send mailed notices to at least 20 different property owners. Included with the notice shall be the report by the *city*, and in the case of appeals any written appeal arguments submitted to the *city*.

19.30.190**Rules and conduct of hearings.**

The hearing examiner shall adopt rules for the conduct of hearings and for any mediation process consistent with this chapter. Such rules shall be published and available upon request to all interested parties. The hearing examiner shall have the power to issue summons and subpoena to compel the appearance of witnesses and production of documents and materials, to order discovery, to administer oaths, and to preserve order.

To avoid unnecessary delay and to promote efficiency of the hearing process, the hearing examiner shall limit testimony, including cross examination, to that which is relevant to the matter being heard, in light of *city* policies and regulations, and shall exclude evidence and cross examination that is irrelevant, cumulative or unduly repetitious. The hearing examiner may establish reasonable time limits for the presentation of direct oral testimony, cross examination and argument. Any written submittals will be admitted only when authorized by the hearing examiner under pertinent and promulgated administrative rules. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.170).]

19.30.200**Case management techniques.**

In all matters heard by the hearing examiner, the hearing examiner shall use case management techniques to the extent reasonable including: limiting testimony and argument to relevant issues and to matters identified in the prehearing order (if applicable); prehearing identification and submission of exhibits (if applicable); stipulated testimony or facts; prehearing dispositive motions (if applicable); and other methods to promote efficiency and to avoid delay. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.175).]

19.30.210**Hearing examiner findings.**

When the hearing examiner renders a decision or recommendation, he or she shall make and enter findings of fact and conclusions from the record which support the decision, and the findings and conclusions shall set forth and demonstrate the manner in which the decision or recommendation is consistent with, carries out and helps implement applicable state laws and regulations and the regulations, policies, objectives and goals of the *comprehensive plan*, subarea or neighborhood plans, the zoning code (KMC Title 18), the subdivision code (KMC Title 17), and other official laws, policies and objectives of the *city*, and that the recommendation or decision will not be unreasonably incompatible with or detrimental to affected properties and the general public. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.180).]

19.30.220**Additional hearing examiner findings – Reclassifications and shoreline environment redesignations.**

When the hearing examiner issues a recommendation regarding an application for a *reclassification* of property or for a shoreline environment redesignation, the recommendation shall include additional findings that support the conclusion that at least one of the following circumstances applies:

A. An adopted *subarea plan* or *area zoning* specifies that the property shall be subsequently considered through an individual *reclassification* application;

B. Where a *subarea plan* has been adopted but subsequent *area zoning* has not been adopted, that the proposed *reclassification* or shoreline redesignation is consistent with the adopted *subarea plan*; or

C. The *applicant* has demonstrated with substantial evidence that:

1. Since the last previous *area zoning* or shoreline environment designation of the subject property, authorized public improvements, permitted private development or other conditions or circumstances affecting the subject property have undergone substantial and material change not anticipated or contemplated in the *subarea plan* or *area zoning*;

2. The impacts from the changed conditions or circumstances affect the subject property in a manner and to a degree different than other properties in the vicinity such that area rezoning or redesignation is not appropriate. For the purposes of this subsection, “changed conditions or circumstances” does not include actions taken by the current or former property owners to facilitate a more intense development of the property including but not limited to changing tax limitations, adjusting property lines, extending services, or changing property ownership;

3. For proposals to increase residential density, that the proposal meets the criteria in the *comprehensive plan*; and

4. The requested *reclassification* or redesignation is in the public interest. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.190).]

19.30.230**Additional hearing examiner findings – Preliminary subdivisions.**

When the hearing examiner makes a decision regarding an application for a proposed preliminary subdivision, the decision shall include additional findings as to whether:

A. Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and

B. The public use and interest will be served by the platting of such subdivision and dedication. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.195).]

19.30.240**Additional hearing examiner findings – Master plans, site plan reviews, and special uses.**

When the hearing examiner makes a recommendation or decision regarding an application for a proposed master plan, site plan review or special use, the recommendation or decision shall include additional findings as to whether the proposal complies with the criteria in KMC 18.105.050(A), 18.120.040(B) and/or KMC 18.115.050.

19.30.250**Written decisions - Appeals.**

A. The hearing examiner's written decision on an appeal shall be transmitted to all parties of record.

B. Decisions of the hearing examiner in cases identified in KMC 19.30.040 may be appealed to the King County superior court by an aggrieved party by filing a notice of appeal in accordance with the Land Use Petition Act. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.210).]

19.30.260**Voluntary mediation.**

As to any appeal pursuant to this chapter which is or could become the subject of a public hearing, the *department* or the hearing examiner, may at their own discretion or at the request of the *applicant* or any person with standing to the appeal, at any state of the proceedings on the appeal, initiate a mediation process to resolve disputes as to such appeal. The mediation process shall be voluntarily agreed to by all participants to the hearing process, and conducted by an independent impartial mediator who shall not be a city employee or any person who will have any role in making any recommendation or decision on the appeal. The mediation shall be conducted in accordance with rules of mediation prepared by the hearing examiner. [Ord. 98-0027 §§ 1, 2 (KCC 20.24.330).]

Chapter 19.35**ENVIRONMENTAL PROCEDURES****Sections:**

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19.35.020	Definitions and abbreviations.
19.35.030	Lead agency.
19.35.040	Responsible official.
19.35.050	General requirements.
19.35.060	Categorical exemptions.
19.35.070	Substantive authority.
19.35.080	Threshold determinations
19.35.090	Environmental impact statements and other environmental documents.
19.35.100	Comments and public notice.
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19.35.120	Use of environmental documents
19.35.130	SEPA/GMA integration.
19.35.140	Planned actions.
19.35.150	Responsibility as consulted agency.
19.35.160	Appeals.
19.35.170	Fees.
19.35.180	Forms.

19.35.010**User guide**

This chapter contains the *city's* laws that implement the State Environmental Policy Act (Chapter 43.21C RCW). This chapter contains several references to Chapter 197-11 WAC, which also implements the State Environmental Policy Act. Subsections of this chapter may reference sections of Chapter 197-11 WAC that are adopted by reference. These WAC sections, as well as Chapter 43.21C RCW, should be consulted for complete information regarding SEPA.

19.35.020**Definitions and abbreviations.**

A. The *city* adopts by reference the following sections of the WAC which contain information on the usage and definition of terms under SEPA:

197-11-040	Definitions;
197-11-220	SEPA/GMA definitions;
197-11-700	Definitions;
197-11-702	Act;
197-11-704	Action;
197-11-706	Addendum;
197-11-708	Adoption;
197-11-710	Affected tribe;
197-11-712	Affecting;
197-11-714	Agency;
197-11-716	Applicant;
197-11-718	Built environment;

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197-11-720	Categorical exemption;
197-11-721	Closed record appeal;
197-11-722	Consolidated appeal;
197-11-724	Consulted agency;
197-11-726	Cost-benefit analysis;
197-11-728	County/city;
197-11-730	Decision maker;
197-11-732	Department;
197-11-734	Determination of nonsignificance (DNS);
197-11-736	Determination of significance (DS);
197-11-738	EIS;
197-11-740	Environment;
197-11-742	Environmental checklist;
197-11-744	Environmental document;
197-11-746	Environmental review;
197-11-750	Expanded scoping;
197-11-752	Impacts;
197-11-754	Incorporation by reference;
197-11-756	Lands covered by water;
197-11-758	Lead agency;
197-11-760	License;
197-11-762	Local agency;
197-11-764	Major action;
197-11-766	Mitigated DNS;
197-11-768	Mitigation;
197-11-770	Natural environment;
197-11-772	NEPA;
197-11-774	Nonproject;
197-11-775	Open record hearing;
197-11-776	Phased review;
197-11-778	Preparation;
197-11-780	Private project;
197-11-782	Probable;
197-11-784	Proposal;
197-11-786	Reasonable alternative;
197-11-788	Responsible official;
197-11-790	SEPA;
197-11-792	Scope;
197-11-793	Scoping;
197-11-794	Significant;
197-11-796	State agency;

197-11-797	Threshold determination;
197-11-799	Underlying governmental action.

B. The following abbreviations are used in this chapter:

1. SEPA – State Environmental Policy Act;
2. DNS – Determination of Nonsignificance;
3. DOE – Washington State Department of Ecology
4. DS – Determination of Significance;
5. EIS – Environmental Impact Statement. [Ord. 98-0027 §§ 1, 2 (KCC 20.44.010).]

19.35.030

Lead agency.

The procedures and standards regarding lead agency responsibility contained in the following sections of the WAC are adopted:

197-11-050	Lead agency;
197-11-900	Purpose of this part;
197-11-922	Lead agency rules;
197-11-924	Determining lead agency;
197-11-926	Lead agency for governmental proposals;
197-11-928	Lead agency for public and private proposals;
197-11-930	Lead agency for private projects with one agency with jurisdiction;
197-11-932	Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city;
197-11-934	Lead agency for private projects requiring licenses from a local agency, not a county/city; and one or more state agencies;
197-11-936	Lead agency for private projects requiring licenses from more than one state agency;
197-11-938	Lead agencies for specific proposals;
197-11-940	Transfer lead agency status to a state agency;
197-11-942	Agreements on lead agency status;
197-11-944	Agreements on division of lead agency duties;
197-11-946	DOE resolution of lead agency disputes;
197-11-948	Assumption of lead agency status.

19.35.040

Responsible official.

For all proposals for which the *city* is the lead agency, the responsible official shall be the *city manager*. For these proposals, the responsible official shall make the threshold determination, supervise scoping and preparation of any required EIS, and perform any other functions assigned to the “lead agency” or “responsible official” by this chapter.

19.35.050**General requirements.**

The procedures and standards regarding the general requirements that apply to the SEPA process are adopted:

197-11-055	Timing of the SEPA process;
197-11-060	Content of environmental review;
197-11-070	Limitations on action during SEPA process;
197-11-080	Incomplete or unavailable information;
197-11-090	Supporting documents;
197-11-100	Information required of applicants;
197-11-158	GMA project review—Reliance on existing plans, laws and regulations;
197-11-238	Monitoring;
197-11-300	Purpose of this part;
197-11-650	Purpose of this part;
197-11-655	Implementation;
197-11-900	Purpose of this part;
197-11-902	Agency SEPA policies;
197-11-904	Agency SEPA procedures;
197-11-906	Content and consistency of agency procedures;
197-11-910	Designation of responsible official;
197-11-912	Procedures of consulted agencies;
197-11-916	Application to ongoing actions;
197-11-920	Agencies with environmental expertise.

A. The optional provision of WAC 197-11-060(3)(c) is adopted.

B. Under WAC 197-11-100, the applicant shall prepare the initial environmental checklist. The *department* shall make a reasonable effort to verify the information in the environmental checklist and shall have the authority to determine the final content of the environmental checklist.

C. The *city manager* may set reasonable deadlines for the submittal of information, studies, or documents necessary for, or subsequent to, threshold determinations. Failure to meet such deadlines shall cause the application to be deemed withdrawn, and plans or other data previously submitted for review may be returned to the applicant together with any unexpended portion of the application review fees. [Ord. 98-0027 §§ 1, 2 (KCC 20.44.030).]

19.35.060**Categorical exemptions.**

A. The *city* adopts by reference the following sections of the WAC which contain information on categorical exemptions:

197-11-305	Categorical exemptions;
197-11-800	Categorical exemptions;
197-11-880	Emergencies;
197-11-890	Petitioning DOE to change exemptions;
197-11-908	Critical areas.

1. The following exempt threshold levels are hereby established pursuant to WAC 197-11- 800(1)(c) except as provided in WAC 197-11-305 and 197-11-800(1)(a):

a. The construction or location of any residential structures of 20 or fewer dwelling units;

- b. The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 30,000 square feet and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots;
 - c. The construction of an office, school, commercial, recreational, service or storage building with 12,000 square feet of gross floor area, and with associated parking facilities designed for 40 automobiles;
 - d. The construction of a parking lot designed for 40 automobiles;
 - e. Any fill or excavation of 500 cubic yards throughout the total lifetime of the fill or excavation and any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulation thereunder.
2. The determination of whether a proposal is categorically exempt shall be made by the *department*.

19.35.070**Substantive authority.**

The following section of the WAC regarding substantive authority and mitigation is adopted:

197-11-660 Substantive authority and mitigation.

A. For the purposes of RCW 43.21C.060 and WAC 197-11-660(a), the following policies, plans, rules and regulations, and all amendments thereto, are designated as potential bases for the exercise of the *city's* substantive authority under SEPA, subject to the provisions of RCW 43.21C.240 and subsection (B) of this section:

- 1. The policies of the State Environmental Policy Act, RCW 43.21C.020;
- 2. The city of Kenmore *comprehensive plan*, its addenda, and revisions and neighborhood and *subarea plans*;
- 3. Surface water management plans;
- 4. The city of Kenmore grading regulations, Chapter 15.25 KMC;
- 5. The city of Kenmore land division regulations, KMC Title 17;
- 6. The city of Kenmore zoning code, KMC Title 18;
- 7. The city of Kenmore landmarks preservation code, Chapter 2.20 KMC;
- 8. The city of Kenmore noise regulations, Chapter 8.05 KMC;
- 9. The city of Kenmore shoreline management and flood hazard codes, KMC Title 16;
- 10. The city of Kenmore surface water runoff policy, Chapter 13.35 KMC;
- 11. The city of Kenmore water quality standards, Chapter 13.45 KMC;
- 12. The city of Kenmore street regulations, KMC Title 12.

B. Substantive SEPA authority to condition or deny new development proposals or other actions shall be used only in cases where specific adverse environmental impacts are not addressed by regulations as set forth above or unusual circumstances exist. In cases where the *city* has adopted regulations to systematically avoid or mitigate adverse impacts, those standards and regulations will normally constitute adequate mitigation of the impacts of new development. Unusual circumstances related to a site or to a proposal, as well as environmental impacts not mitigated by the regulations, will be subject to site-specific or project-specific SEPA mitigation.

C. Any decision to deny or approve with conditions pursuant to RCW 43.21C.060 shall be contained in a responsible official's decision document. The written decision shall contain facts and conclusions based on the proposal's specific adverse environmental impacts as identified in an environmental checklist, EIS, threshold determination, other environmental document including a *department* staff report and recommendation to a decisionmaker, or findings made pursuant to a public hearing authorized or required by law or ordinance. The decision document shall state the specific plan, policy or regulation which supports the SEPA decision and, if mitigation beyond existing *development regulations* is required, the specific adverse environmental impacts and the reasons why additional mitigation is needed to comply with SEPA.

D. This chapter shall not be construed as a limitation on the authority of the *city* to approve, deny or condition a proposal for reasons based upon other statutes, ordinances or regulations. [Ord. 98-0027 §§ 1, 2 (KCC 20.44.080).]

19.35.080**Threshold determinations.**

The *city* adopts by reference the following sections of the WAC which contain related information:

- 197-11-310 Threshold determination required;
- 197-11-315 Environmental checklist;

197-11-330	Threshold determination process;
197-11-335	Additional information;
197-11-340	Determination of nonsignificance (DNS);
197-11-350	Mitigated DNS;
197-11-360	Determination of significance (DS)/initiation of scoping;
197-11-390	Effect of threshold determination;
197-11-660	Substantive authority and mitigation.

A. The mitigated DNS provision of WAC 197-11-350 shall be enforced as follows:

1. If the *department* issues a mitigated DNS, conditions requiring compliance with the mitigation measures which were specified in the application and environmental checklist shall be deemed conditions of any decision or recommendation of approval of the action.

2. If at any time the proposed mitigation measures are withdrawn or substantially changed, the responsible official shall review the threshold determination and, if necessary, may withdraw the mitigated DNS and issue a DS. [Ord. 98-0027 §§ 1, 2, 7 (KCC 20.44.040).]

19.35.090

Environmental impact statements and other environmental documents.

The following sections of the WAC related to procedures and standards for preparation of environmental impact statements and other environmental documents are adopted:

197-11-400	Purpose of EIS;
197-11-402	General requirements;
197-11-405	EIS types;
197-11-406	EIS timing;
197-11-408	Scoping;
197-11-410	Expanded scoping;
197-11-420	EIS preparation;
197-11-425	Style and size;
197-11-430	Format;
197-11-435	Cover letter or memo;
197-11-440	EIS contents;
197-11-442	Contents of EIS on nonproject proposals;
197-11-443	EIS contents when prior nonproject EIS;
197-11-444	Elements of the environment;
197-11-448	Relationship of EIS to other considerations;
197-11-450	Cost-benefit analysis;
197-11-455	Issuance of DEIS;
197-11-460	Issuance of FEIS.

A. Pursuant to WAC 197-11-408(2)(a), all comments on determinations of significance and scoping notices shall be in writing, except where a public meeting on EIS scoping occurs pursuant to WAC 197-11-410(1)(b).

B. Pursuant to WAC 197-11-420, 197-11-620, and 197-11-625, the *department* shall be responsible for preparation and content of EISs and other environmental documents. The *department* shall contract with consultants as necessary for the preparation of environmental documents. The *department* may consider the opinion of the applicant regarding

the qualifications of the consultant but the *department* shall retain sole authority for selecting persons or firms to author, co-author, provide special services or otherwise participate in the preparation of required environmental documents.

C. Consultants or subconsultants selected by the *city* to prepare environmental documents for a private development proposal shall not: act as agents for the applicant in preparation or acquisition of associated underlying permits; have a financial interest in the proposal for which the environmental document is being prepared; perform any work or provide any services for the applicant in connection with or related to the proposal.

D. The *department* may establish and maintain one or more lists of qualified consultants who are eligible to receive contracts for preparation of environmental documents. Separate lists may be maintained to reflect specialized qualifications or expertise. When the *department* requires consultant services to prepare environmental documents, the *department* shall select a consultant and negotiate a contract for such services.

E. All costs of preparing the environment document shall be borne by the applicant.

F. In the event an applicant decides to suspend or abandon the project, the applicant must provide formal written notice to the *department* and consultant. The applicant shall continue to be responsible for all monies expended by the *city* or consultants to the point of receipt of notification to suspend or abandon, or other obligations or penalties under the terms of any contract let for preparation of the environmental documents.

G. The *department* shall only publish an environmental impact statement (EIS) when it believes that the EIS adequately discloses: the significant direct, indirect, and cumulative adverse impacts of the proposal and its alternatives; mitigation measures proposed and committed to by the applicant, and their effectiveness in significantly mitigating impacts; mitigation measures that could be implemented or required; and unavoidable significant adverse impacts. Unless otherwise agreed to by the applicant, a final environmental impact statement shall be issued by the *department* within 270 calendar days following the issuance of a DS for the proposal, except for public projects and nonproject actions, unless the *department* determines at the time of issuance of the DS that a longer time period will be required because of the extraordinary size of the proposal or the scope of the environmental impacts resulting therefrom; provided, that the additional time shall not exceed 90 calendar days unless agreed to by the applicant.

H. The following periods shall be excluded from the 270-day time period for issuing a final environmental impact statement:

1. Any time period during which the applicant has failed to pay required environmental review fees to the *department*;
2. Any period of time during which the applicant has been requested to provide additional information required for preparation of the environmental impact statement; and
3. Any period of time during which the applicant has not authorized the *department* to proceed with preparation of the environmental impact statement. [Ord. 98-0027 §§ 1, 2 (KCC 20.44.050).]

19.35.100

Comments and public notice.

This section contains rules for commenting on and responding to environmental documents, including rules for public notices and hearings. The *city* adopts by reference the following related sections of the WAC:

197-11-355	Optional DNS process;
197-11-500	Purpose of this part;
197-11-502	Inviting comment;
197-11-504	Availability and cost of environmental documents;
197-11-508	SEPA register;
197-11-510	Public notice;
197-11-535	Public hearings and meetings;
197-11-545	Effect of no comment;
197-11-550	Specificity of comments;
197-11-560	FEIS response to comments;

197-11-570 Consultant agency costs to assist lead agency.

A. A public comment period for a proposed DNS is required pursuant to WAC 197-11-502 when the proposed action involves: (i) Another agency with jurisdiction; (ii) Demolition of any structure or facility not exempted by WAC 197-11-800 (2)(f) or 197-11-880; (iii) Issuance of clearing or grading permits not exempted in Part Nine of the SEPA rules; (iv) A DNS under WAC 197-11-350 (2), (3) or 197-11-360(4); or (v) A GMA action. For these projects, the optional DNS process may be used to combine the SEPA comment period with the 21-day notice of application comment period, if any, for the underlying permit. If a notice of application is not required for the underlying permit, the 14-day SEPA comment period shall follow issuance of the DNS and shall be concluded prior to the decision on the underlying action.

B. Publication of notice in a newspaper of general circulation in the area where the proposal is located also shall be required for all nonproject actions and for all other proposals that are subject to the provisions of this chapter but are not classified as land use decisions in this title.

C. The responsible official may require further notice if deemed necessary to provide adequate public notice of a pending action. Failure to require further or alternative notice shall not be a violation of any notice procedure. [Ord. 98-0027 §§ 1, 2 (KCC 20.44.060).]

19.35.110

Use of existing environmental documents.

The following procedures and standards of the WAC are adopted regarding use of existing environmental documents: [Ord. 98-0027 §§ 1, 2 (KCC 20.44.070).]

197-11-600	When to use existing environmental documents;
197-11-610	Use of NEPA documents;
197-11-620	Supplemental Environmental Impact Statement -- Procedures;
197-11-625	Addenda procedures;
197-11-630	Adoption procedures;
197-11-635	Incorporation by reference procedures;
197-11-640	Combining documents.

19.35.120

Use of environmental documents

For nonexempt proposals, the DNS or final EIS and SEIS for the proposal shall accompany the city's staff recommendation to the appropriate decisionmaker. (Ord. 4150 § 2 (part), 2008)

19.35.130

SEPA/GMA integration.

The following procedures and standards of the WAC regarding the timing and content of environmental review are hereby adopted: [Ord. 98-0027 §§ 1, 2 (KCC 20.44.085).]

197-11-210	SEPA/GMA integration;
197-11-228	Overall SEPA/GMA integration procedures;
197-11-230	Timing of an integrated SEPA/GMA process;

197-11-232	SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping;
197-11-235	Documents.

19.35.140**Planned actions.**

The following procedures and standards of the WAC are adopted regarding the designation of planned actions: [Ord. 98-0027 §§ 1, 2 (KCC 20.44.042).]

197-11-164	Planned actions--Definition and criteria;
197-11-168	Ordinances or resolutions designating planned actions—Procedures for adoption;
197-11-172	Planned actions—Project review.

19.35.150**Responsibility as consulted agency.**

All requests from other agencies that the *city* consult on threshold investigations, the scope process, EISs or other environmental documents shall be submitted to the *department*. The *department* shall be responsible for compiling and transmitting the *city*'s response to such requests for consultation. [Ord. 98-0027 §§ 1, 2 (KCC 20.44.100).]

19.35.160**Appeals.**

The following procedures and standards of the WAC regarding appeals are hereby adopted:

197-11-680	Appeals.
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A. Appeals of threshold determinations or the adequacy of a final EIS are conducted by the *hearing examiner* pursuant to the provisions of KMC 19.30.070, subject to the following:

1. Only one appeal of each threshold determination shall be allowed on a proposal.
2. As provided in RCW 43.21C.075(3)(d), the decision of the responsible official shall be entitled to substantial weight.

3. For Type 2 decisions, an administrative SEPA appeal hearing shall be consolidated in all cases with an administrative appeal hearing, if any, on the the underlying proposal. For Type 3 and 4 decisions, an administrative SEPA appeal hearing shall be consolidated with the open record hearing on the underlying action.

B. An appeal of a threshold determination shall be filed with the *city* within 14 calendar days of the date the determination is issued by the responsible official, unless a public comment period under WAC 197-11-340(2) is provided or the optional DNS process is used in which case the appeal period is 21 calendar days.

C. Notwithstanding the provisions of subsections (A) and (B) of this section, the *department* may adopt procedures under which an administrative appeal shall not be provided if the *city manager* finds that consideration of an appeal would be likely to cause the *department* to violate a compliance, enforcement or other specific mandatory order or specific legal obligation. The *city manager*'s determination shall be included in the notice of the SEPA determination, and the *city manager* shall provide a written summary upon which the determination is based within five days of receiving a written request. Because there would be no administrative appeal in such situations, review may be sought before a court of competent jurisdiction under RCW 43.21C.075 and applicable regulations, in connection with an appeal of the underlying governmental action.

D. There is no administrative appeal of a DNS, MDNS, DS or EIS adequacy associated with a Type 1 decision or a Type 5 or other legislative decision.

[Ord. 06-0255 § 15; Ord. 04-0194 § 7; Ord. 98-0027 §§ 1, 2 (KCC 20.44.120).]

19.35.170

Fees

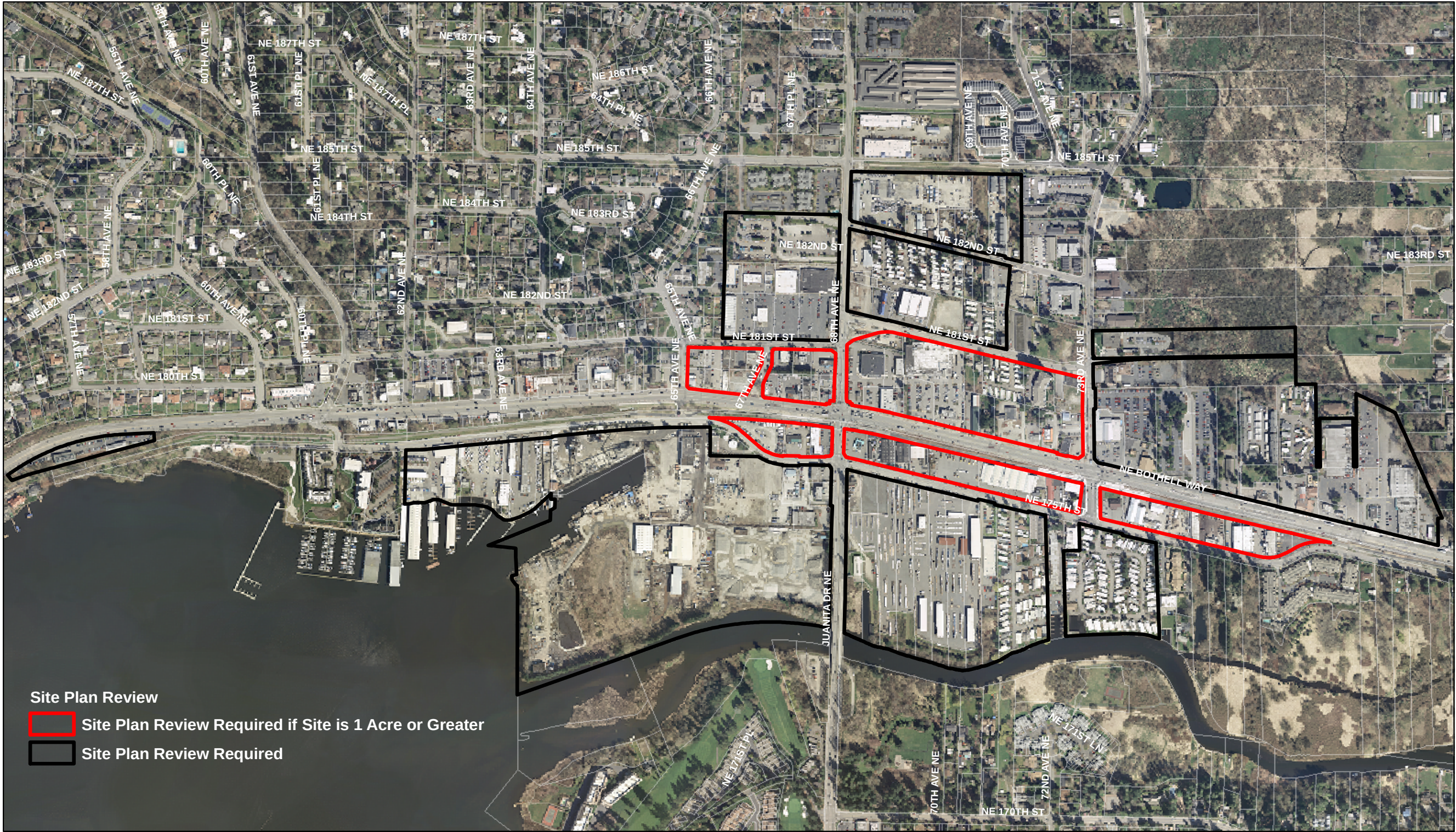
The *city* shall require fees as set forth in Title 20.

19.35.180

Forms.

The *city* adopts by reference the following sections of the WAC which contain information on forms:

197-11-960	Environmental checklist;
197-11-965	Adoption notice;
197-11-970	Determination of nonsignificance (DNS);
197-11-980	Determination of significance and scoping notice (DS);
197-11-985	Notice of assumption of lead agency status;
197-11-990	Notice of action.



City of Kenmore, WA | Site Plan Review Requirement

3/24/11



Chapter 20.47
ROAD AND PARK IMPACT FEES

Sections:

Article I. General

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- 20.47.020 Definitions.
- 20.47.030 Assessment of impact fees.
- 20.47.040 Exemptions.
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- 20.47.060 Tax adjustments.
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Article II. Rates

- 20.47.120 Road impact fee.
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Article I. General

20.47.010

Findings and authority.

The city council of the city of Kenmore (the “council”) hereby finds and determines that new growth and development, including but not limited to new residential, commercial, retail, office, and industrial development, in the city of Kenmore will create additional demand and need for public facilities in the city of Kenmore, and the council finds that new growth and development should pay a proportionate share of the cost of new facilities needed to serve the new growth and development. The city of Kenmore has conducted extensive studies documenting the procedures for measuring the impact of new developments on public facilities, has prepared the Roads Study and Parks Study, and hereby incorporates these studies into this chapter by reference. Therefore, pursuant to Chapter 82.02 RCW, the council adopts this chapter to assess impact fees for roads and parks. The provisions of this chapter shall be liberally construed in order to carry out the purposes of the council in establishing the impact fee program. [Ord. 01-0109 Ch. 1, § 1.]

20.47.020

Definitions.

The following words and terms shall have the following meanings for the purposes of this chapter, unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined pursuant to RCW 82.02.090, or given their usual and customary meaning.

A. "Accessory dwelling unit" means a dwelling unit that has been added onto, created within, or separated from a single-family detached dwelling for use as a complete independent living unit with provisions for cooking, eating, sanitation, and sleeping.

B. "Building permit" means an official document or certification which is issued by the building official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.

C. "Capital facilities plan" means the capital facilities plan element of a comprehensive plan adopted by the city of Kenmore pursuant to Chapter 36.70A RCW, and such plan as amended.

D. "City" means the city of Kenmore.

E. "Council" means the city council of the city of Kenmore.

F. "Department" means the department of community development.

G. "Development activity" means any construction, expansion, or change in the use of a building or structure that creates additional demand and need for public facilities.

H. "Development approval" means any written authorization from the city of Kenmore which authorizes the commencement of a development activity.

I. "Director" means the director of the department of community development or the director's designee.

J. "Dwelling unit" means a single unit providing complete and independent living facilities for one or more persons, including permanent facilities for living, sleeping, eating, cooking, and sanitation needs.

K. "Encumbered" means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for public facilities.

L. "Feepayer" is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a land development activity which creates the demand for additional capital facilities, and which requires the issuance of a building permit. "Feepayer" includes an applicant for an impact fee credit.

M. "Gross floor area" means the total square footage of any building, structure, or use, including accessory uses.

N. "Hearing examiner" means the examiner who acts on behalf of the city in considering and applying land use regulatory codes as provided under this code. Where appropriate, "hearing examiner" also refers to the office of the hearing examiner.

O. "Impact fee" means a payment of money imposed by the city of Kenmore on development activity pursuant to this title as a condition of granting development approval in order to pay for the public facilities needed to serve new growth and development. "Impact fee" does not include a reasonable permit fee, an application fee, the administrative fee for collecting and handling school impact fees, or the cost of reviewing independent fee calculations.

P. "Impact fee account" or "account" means the account(s) established for each type of public facility for which impact fees are collected. The accounts shall be established pursuant to KMC 20.47.080 and 20.47.090, and comply with the requirements of RCW 82.02.070.

Q. "Independent fee calculation" means the road impact calculation, park impact calculation, and/or economic documentation prepared by a feepayer, to support the assessment of an impact fee other than by the use of the rates listed in Article II of this chapter, or the calculations prepared by the director where none of the fee categories or fee amounts in Article II of this chapter accurately describe or capture the impacts of the new development on public facilities.

R. "Interest" means the average interest rate earned in the last fiscal year by the city of Kenmore.

S. "ITE Land Use Code" means the classification code number assigned to a type of land use by the Institute of Transportation Engineers in the Sixth Edition of "Trip Generation".

T. "Low-income housing" means (1) an owner-occupied housing unit affordable to households whose household income is less than 80 percent of the King County median income, adjusted for household size, as determined by the United States Department of Housing and Urban

Development (HUD), and no more than 30 percent of the household income is paid for housing expenses; or (2) a renter-occupied housing unit affordable to households whose income is less than 50 percent of the King County median income, adjusted for household size, as determined by HUD, and no more than 30 percent of the household income is paid for housing expenses (rent and an appropriate utility allowance). In the event that HUD no longer publishes median income figures for King County, the county may use or determine such other method as it may choose to determine the King County median income, adjusted for household size. The director will make a determination of sales prices or rents that meet the affordability requirements of this section. An applicant for a low-income housing exemption may be a public housing agency, a private nonprofit housing developer, or a private developer.

U. "Occupancy permit" means the permit issued by the city of Kenmore where a development activity results in a change in use of the pre-existing structure, or the creation of a new use where none previously existed.

V. "Open space" means for the purposes of this chapter undeveloped public land that is permanently protected from development (except for the development of trails or other passive public access or use).

W. "Owner" means the owner of record of real property, or a person with an unrestricted written option to purchase property; provided, that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.

X. "Parks" means parks, open space, and recreational facilities, including but not limited to ball fields, golf courses, athletic fields, soccer fields, swimming pools, tennis courts, volleyball courts, neighborhood parks, community parks, and open space.

Y. "Parks study" means the "Rate Study for Impact Fees for Parks," city of Kenmore, dated May 15, 2001.

Z. "Planned unit development" or "PUD" shall have the same meaning as set forth in this code.

AA. "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development or users of the project, and are not system improvements. No improvement or facility included in a capital facilities plan adopted by the council shall be considered a project improvement.

BB. "Public facilities" means the following capital facilities owned or operated by the city of Kenmore or other governmental entities: (1) public streets and roads; and (2) publicly owned parks, open space, and recreation facilities.

CC. "Residential" or "residential development" means all types of construction intended for human habitation. This shall include, but is not limited to, single-family, duplex, triplex, and other multifamily development.

DD. "Road" means a right-of-way which enables motor vehicles, transit vehicles, bicycles and pedestrians to travel between destinations, and affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, street, and other thoroughfare, except an alley.

EE. "Roads study" means the "Rate Study for Impact Fees for Roads," prepared for the city of Kenmore by Henderson, Young & Company, dated December 2, 2008.

FF. "Significant past tax payment" means taxes exceeding five percent of the amount of the impact fee, and which were paid prior to the date the impact fee is assessed and were earmarked or proratable to the same system improvements for which the impact fee is assessed.

GG. "Square footage" means the square footage of the gross floor area of the development.

HH. "State" means the state of Washington.

II. "System improvements" means public facilities that are included in the city of Kenmore's capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements. [Ord. 08-0292 § 3; Ord. 03-0184 § 3; Ord. 01-0109 Ch. 1, § 2.]

20.47.030**Assessment of impact fees.**

A. The city shall collect impact fees, based on the rates in Article II of this chapter, from any applicant seeking development approval from the city for any development activity within the city, where such development activity requires the issuance of a building permit. This shall include, but is not limited to, the development of residential, commercial, retail, office, and industrial land, and includes the expansion of existing uses that creates a demand for additional public facilities, as well as a change in existing use that creates a demand for additional public facilities.

B. For a change in use of an existing building or dwelling unit, including any alteration, expansion, replacement or new accessory building, the impact fee shall be the applicable impact fee for the land use category of the new use, less any impact fee previously paid for the land use category of the prior use. If no impact fee was paid for the prior use, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use.

C. For mixed use developments, impact fees shall be imposed for the proportionate share of each land use based on the applicable measurement in the impact fee rates set forth in Article II of this chapter.

D. Applicants seeking an occupancy permit for a change in use shall be required to pay a road impact fee if the change in use triggers review under the State Environmental Policy Act, this code, or increases the trip generation by more than five percent or 10 peak hour trips.

E. Impact fees shall be assessed at the time the complete application for a building permit or occupancy permit is submitted for each unit in the development, using the impact fee rates then in effect. Except as provided in subsection (I) of this section, impact fees shall be paid at the time the building permit is issued by the city. The city shall not accept an application for a building permit if final plat, PUD, or binding site plan approval is needed and has not yet been granted by the city. Furthermore, the city shall not accept an application for a building permit unless prior to submittal or concurrent with submittal, the feepayer submits complete applications for all other discretionary reviews needed, including, but not limited to, design review, the environmental determination, and the accompanying checklist.

F. Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to KMC 20.47.050, shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to KMC 20.47.050 setting forth the dollar amount of the credit awarded. Except as provided in subsection (I) of this section, impact fees, as determined after the application of appropriate credits, shall be collected from the feepayer at the time the building permit is issued for each unit in the development.

G. Where the impact fees imposed are determined by the square footage of the development, a deposit shall be due from the feepayer at the same time that a complete application for a building permit is submitted. The deposit shall be based on an estimate, submitted by the feepayer, of the size and type of structure which will be constructed on the property. In the absence of an estimate provided by the feepayer, the department shall calculate a deposit amount based on the maximum allowable density/intensity permissible on the property. If the final square footage of the development is in excess of the initial estimate, any difference will be due prior to the issuance of a certificate of occupancy or an occupancy permit, using the rate in effect at that time. The feepayer shall pay any such difference plus interest, calculated at the interest rate which the city of Kenmore then earns. If the final square footage is less than the initial estimate, the department shall give a credit for the difference, plus interest at the interest rate which the city of Kenmore then earns.

H. Except as provided in subsection (I) of this section, the department shall not issue the required building permit or occupancy permit unless and until the impact fees set forth in Article II of this chapter have been paid in the amount that they exceed exemptions or credits provided pursuant to KMC 20.47.040 or 20.47.050.

I. For the parcels located northwest of the intersection of Northeast 181st Street and 68th Avenue Northeast, as shown on the map attached to the ordinance codified in this subsection (Ord. 07-0273):

1. The road impact fees of subsections (E) and (F) of this section shall be paid in two installments, 25 percent at issuance of building permit and 75 percent at issuance of certificate of occupancy; and

2. The deposit of subsection (G) of this section for road impact fees shall be 25 percent of the estimate. [Ord. 07-0273 § 1; Ord. 01-0109 Ch. 1, § 3.]

20.47.040

Exemptions.

A. Except as provided for below, the following shall be exempted from the payment of all impact fees:

1. Alteration of an existing nonresidential structure that does not expand the usable space or add any residential units;

2. Miscellaneous improvements, including, but not limited to, fences, walls, swimming pools, and signs;

3. Demolition or moving of a structure;

4. Expansion of an existing structure that results in the addition of 100 square feet or less of gross floor area;

5. Replacement of a structure with a new structure of the same size and use at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure. Replacement of a structure with a new structure of the same size shall be interpreted to include any structure for which the gross square footage of the building will not be increased by more than 100 square feet;

6. A change in use where the increase in trip generation is less than five percent or 10 peak hour trips;

7. Any building permit application that has been submitted to the city before 5:00 p.m. the business day before the effective date of this article and subsequently determined to be a complete application, based on the information on file as of the effective date of this article;

8. Permit applications for no more than 25 percent of the total low-income housing single-family dwelling units in any one project and regardless of whether such project is built in phases, to a maximum of 50 low-income housing single-family dwelling units in any one project and regardless of whether such project is built in phases, whether occupied by owners or renters; provided, that the owner of such low-income housing executes and records a covenant against the property for a period of 30 years guaranteeing that such dwelling units will continue to be used for low-income housing. In the event that the development is no longer used for low-income rental housing, the owner shall pay the city the impact fee from which the owner or any prior owner was exempt, plus interest at an annual rate of 10 percent. The lien shall run with the land and apply to subsequent owners for a period of 20 additional years; provided, however, that the city manager or designee shall retain the authority to increase the 25 percent threshold or the 50-unit maximum threshold provisions of this section if written findings are entered that the city can reasonably afford to pay the impact fees otherwise exempted and the proposed low-income housing units satisfy a particularly critical need. Any claim for an exemption for low-income owner-occupied housing must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

B. Repealed by Ord. 03-0184.

C. Any impact fees not collected from low-income housing pursuant to the exemption above shall be paid from public funds other than impact fee accounts.

D. The director shall be authorized to determine whether a particular development activity falls within an exemption identified in this section, in any other section, or under other applicable law. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in KMC 20.47.070. [Ord. 03-0184 §§ 1, 2; Ord. 01-0109 Ch. 1, § 4.]

20.47.050**Credits.**

A. A feepayer can request that a credit or credits for impact fees be awarded to him/her for the total value of dedicated land, improvements, or construction provided by the feepayer. Credits will be given only if the land, improvements, and/or the facility constructed are:

1. Included within the capital facilities plan or would serve the goals and objectives of the capital facilities plan; and

2. At suitable sites and constructed at acceptable quality as determined by the city.

B. The director shall determine if requests for credits meet the criteria in subsection (A) of this section.

C. For each request for a credit or credits the director shall select an appraiser or the feepayer may select an independent appraiser acceptable to the director.

D. The appraiser must possess an MAI or other equivalent certification and shall not have a fiduciary or personal interest in the property being appraised. A description of the appraiser's certification shall be included with the appraisal, and the appraiser shall certify that he or she does not have a fiduciary or personal interest in the property being appraised.

E. The appraiser shall be directed to determine the total value of the dedicated land, improvements, and/or construction provided by the feepayer on a case-by-case basis.

F. The feepayer shall pay for the cost of the appraisal or request that the cost of the appraisal be deducted from the credit which the director may be providing to the feepayer, in the event that a credit is awarded.

G. After receiving the appraisal the director shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, the legal description of the site donated where applicable, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his or her agreement to the terms of the letter or certificate, and return such signed document to the director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 60 calendar days shall nullify the credit.

H. No credit shall be given for project improvements.

I. A feepayer can request that a credit or credits for impact fees be awarded to him/her for significant past tax payments. For each request for a credit or credits for significant past tax payments for park and road impact fees, the feepayer shall submit receipts and a calculation of past tax payments earmarked for or proratable to the particular system improvement. The director shall determine the amount of credits, if any, for significant past tax payments for park and road public facilities.

J. Any claim for credit must be made no later than 20 calendar days after the submission of an application for a building permit. The failure to timely file such a claim shall constitute a final bar to later request any such credit.

K. Determinations made by the director pursuant to this section shall be subject to the appeals procedures set forth in KMC 18.100.070. [Ord. 01-0109 Ch. 1, § 5.]

20.47.060**Tax adjustments.**

Pursuant to and consistent with the requirements of RCW 82.02.060, the Roads Study and Parks Study have provided adjustments for future taxes to be paid by the new development which are earmarked or proratable to the same new public facilities which will serve the new development. The impact fee rates in Article II of this chapter have been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund public improvements. [Ord. 01-0109 Ch. 1, § 6.]

20.47.070

Appeals.

A. Any feepayer may pay the impact fees imposed by this title under protest in order to obtain a building permit. No appeal shall be permitted until the impact fees at issue have been paid.

B. Appeals regarding the impact fees imposed on any development activity may only be filed by the feepayer of the property where such development activity will occur.

C. The feepayer must first file a request for review regarding impact fees with the director, as provided herein:

1. The request shall be in writing on the form provided by the city;
2. The request for review by the director shall be filed within 14 calendar days of the feepayer's payment of the impact fees at issue. The failure to timely file such a request shall constitute a final bar to later seek such review;
3. No administrative fee will be imposed for the request for review by the director; and
4. The director shall issue his or her determination in writing.

D. Determinations of the director with respect to the applicability of the impact fees to a given development activity, the availability or value of a credit, or the director's decision concerning the independent fee calculation which is authorized in Article II of this chapter, or the fees imposed by the director pursuant to Article II of this chapter, or any other determination which the director is authorized to make pursuant to this title, can be appealed to the hearing examiner.

E. Appeals shall be taken within 14 calendar days of the director's issuance of a written determination by filing with the department a notice of appeal specifying the grounds thereof, and depositing the necessary fee, which is set forth in the existing fee schedules for appeals of such decisions. The director shall transmit to the office of the hearing examiner all papers constituting the record for the determination, including where appropriate, the independent fee calculation.

F. The hearing examiner shall fix a time for the hearing of the appeal, give notice to the parties in interest, and decide the same as provided in this code. At the hearing, any party may appear in person or by agent or attorney.

G. The hearing examiner is authorized to make findings of fact regarding the applicability of the impact fees to a given development activity, the availability or amount of the credit, or the accuracy or applicability of an independent fee calculation. The decision of the hearing examiner shall be final, except as provided in this section.

H. The hearing examiner may, so long as such action is in conformance with the provisions of this chapter, reverse or affirm, in whole or in part, or may modify the determinations of the director with respect to the amount of the impact fees imposed or the credit awarded. [Ord. 01-0109 Ch. 1, § 7.]

20.47.080

Establishment of impact fee accounts.

A. Impact fee receipts shall be earmarked specifically and deposited in special interest-bearing accounts.

B. There are hereby established two separate impact fee accounts for the fees collected pursuant to this title: the roads impact account and the parks impact account. Funds withdrawn from these accounts must be used in accordance with the provisions of KMC 20.47.100 and applicable state law. Interest earned on the fees shall be retained in each of the accounts and expended for the purposes for which the impact fees were collected.

C. On an annual basis, the finance director shall provide a report to the council on each of the two impact fee accounts showing the source and amount of all monies collected, earned, or received, and the public improvements that were financed in whole or in part by impact fees.

D. Impact fees shall be expended or encumbered within six years of receipt, unless the council identifies in written findings extraordinary and compelling reason or reasons for the city to hold the fees beyond the six-year period. Under such circumstances, the council shall establish the

period of time within which the impact fees shall be expended or encumbered. [Ord. 01-0109 Ch. 1, § 8.]

20.47.090

Refunds.

A. If the city fails to expend or encumber the impact fees within six years of when the fees were paid, or where extraordinary or compelling reasons exist, such other time periods as established pursuant to KMC 20.47.080, the current owner of the property on which impact fees have been paid may receive a refund of such fees. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first-in, first-out basis.

B. The city shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of such claimants. A potential claimant or claimant must be the owner of the property.

C. Owners seeking a refund of impact fees must submit a written request for a refund of the fees to the director within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later.

D. Any impact fees for which no application for a refund has been made within this one-year period shall be retained by the city and expended on the appropriate public facilities.

E. Refunds of impact fees under this section shall include any interest earned on the impact fees by the city.

F. When the city seeks to terminate any or all components of the impact fee program, all unexpended or unencumbered funds from any terminated component or components, including interest earned, shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the city shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail at the last known address of the claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the city, but must be expended for the appropriate public facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

G. The city shall also refund to the current owner of property for which impact fees have been paid all impact fees paid, including interest earned on the impact fees, if the development activity for which the impact fees were imposed did not occur; provided, that if the city has expended or encumbered the impact fees in good faith prior to the application for a refund, the director can decline to provide the refund. If within a period of three years, the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner can petition the director for an offset. The petitioner must provide receipts of impact fees previously paid for a development of the same or substantially similar nature on the same property or some portion thereof. In the case of park or fire impact fees, the director shall determine whether to grant an offset, and the determinations of the director may be appealed pursuant to the procedures in KMC 20.47.070. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in KMC 20.47.070. [Ord. 01-0109 Ch. 1, § 9.]

20.47.100

Use of funds.

A. Pursuant to this title, impact fees shall:

1. Be used for public improvements that will reasonably benefit the new development; and
2. Not be imposed to make up for deficiencies in public facilities serving existing developments; and
3. Not be used for maintenance or operation.

B. Road impact fees may be spent for public improvements, including, but not limited to, planning, land acquisition, right-of-way acquisition, site improvements, necessary off-site

improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, and any other expenses which can be capitalized.

C. Park impact fees may be spent for public improvements, including, but not limited to, planning for parks that will reasonably benefit the new development, land acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, and capital equipment pertaining to park facilities.

D. Impact fees may also be used to recoup public improvement costs previously incurred by the city to the extent that new growth and development will be served by the previously constructed improvements or incurred costs.

E. In the event that bonds or similar debt instruments are or have been issued for the advanced provision of public improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the new development. [Ord. 01-0109 Ch. 1, § 10.]

20.47.110

Review.

The fee rates set forth in Article II of this chapter may be reviewed and adjusted by the council as it deems necessary and appropriate in conjunction with the annual update of the capital facilities plan element of the city's comprehensive plan. The fee rates shall be adjusted 12 months after the effective date of this article, or 12 months after the most recent review by the council. The council may determine the amount of the adjustment and revise the fee rates set forth in Article II of this chapter. Absent such affirmative council adjustment, the adjustment shall be 100 percent of the Consumer Price Index-W for the Seattle area, for the most recent 12-month period prior to the date of the adjustment. Subsequent fee rate changes shall be as established in the city council's annual fee resolution. [Ord. 02-0147 § 1; Ord. 01-0109 Ch. 1, § 11.]

Article II. Rates

20.47.120

Road impact fee.

The road impact fee rates in this section are generated the formula for calculating impact fees set forth in the Roads Study, which is incorporated herein by reference. Except as otherwise provided for independent fee calculations in KMC 20.47.140, exemptions in KMC 20.47.040, and credits in KMC 20.47.050, all new developments in the city will be charged the road impact fee applicable to the type of development, in an amount imposed by the city council by resolution. [Ord. 02-0139 § 1; Ord. 01-0109 Ch. 2, § 1.]

20.47.130

Park impact fee.

The park impact fee rates in this section are generated from the formula for calculating impact fees set forth in the Parks Study and the Parks and Recreation Master Plan, which are incorporated herein by reference. Except as otherwise provided for in KMC 20.47.140, Independent fee calculations; KMC 20.47.040, Exemptions; and KMC 20.47.050, Credits, all new residential developments in the city will be charged the park impact fee applicable to the type of dwelling unit, in an amount imposed by the city council by resolution. [Ord. 03-0173 § 1; Ord. 02-0139 § 1; Ord. 01-0109 Ch. 2, § 2.]

20.47.140**Independent fee calculations.**

A. If in the judgment of the director, none of the fee categories or fee amounts set forth in KMC 20.47.120 or 20.47.130 accurately describe or capture the impacts of a new development on roads, parks or fire protection facilities, the department may conduct independent fee calculations and the director may impose alternative fees on a specific development based on those calculations. The alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

B. If a feepayer opts not to have the impact fees determined according to KMC 20.47.120 or 20.47.130, then the feepayer shall prepare and submit to the director an independent fee calculation for the development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made.

C. Any feepayer submitting an independent fee calculation will be required to pay the city of Kenmore a fee to cover the cost of reviewing the independent fee calculation. The fee required by the city for conducting the review of the independent fee calculation shall be imposed by the city council by resolution, unless otherwise established by the director, and shall be paid by the feepayer prior to initiation of review.

D. While there is a presumption that the calculations set forth in the Roads Study and Parks Study are valid, the director shall consider the documentation submitted by the feepayer, but is not required to accept such documentation or analysis which the director reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the feepayer to submit additional or different documentation for consideration. The director is authorized to adjust the impact fees on a case-by-case basis based on the independent fee calculation, the specific characteristics of the development, and/or principles of fairness. The fees or alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

E. Determinations made by the director pursuant to this section may be appealed to the office of the hearing examiner as set forth in KMC 20.47.070. [Ord. 02-0139 § 1; Ord. 01-0109 Ch. 2, § 3.]

Article III. Miscellaneous Provisions**20.47.150****Existing authority unimpaired.**

Nothing in this chapter shall preclude the city from requiring the feepayer or the proponent of a development activity to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or Chapter 58.17 RCW, governing plats and subdivisions; provided, that the exercise of this authority is consistent with the provisions of Chapters 43.21C and 82.02 RCW. [Ord. 01-0109 Ch. 2, § 3.]

20.47.155**Park space in lieu of impact fee.**

A. The payment of a parks impact fee, consistent with this chapter shall be the preferred method of meeting park space requirements for all new development, except as follows:

B. At the discretion of the city, the fee payer may be able to receive credit towards their impact fee for land dedicated, improvements made or other construction completed for park purposes.

1. Such land improvements or construction completed shall be adjacent to other publicly owned land; or

2. Be within an area of the city designated within the city comprehensive plan as in need of park space; or

EXHIBIT 3

3. Would in some other way further the goals and objectives of the capital facilities plan or other city plans;

4. All such improvements shall be constructed at an acceptable quality as determined by the city. [Ord. 01-0109 Ch. III, § 4(A); Ord. 00-0097 § 1(A); Ord. 98-0026 §§ 1, 2 (KCC 21A.14.180).]

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Adopt Ordinance 11-0330 Revising the City Code Relating to Streets and Bridges; Amending Kenmore Municipal Code Title 12 Chapters 05, 10, 15, 20, 35, 40, and 55.			July 25, 2011
DEPARTMENT	DIRECTOR	MEETING ATTENDEES	PHONE
Engineering	Ron Loewen	Ron Loewen, Staff Kent Vaughan, Staff	(425) 398-8900
COST OF PROPOSAL: <u>Staff Cost:</u> Preparing agenda bill 2 hours Preparing code revisions 60 hours City Attorney Review 4 hours		ACCOUNT NUMBER: 01 32 5001 Regular Salary & Wages	
AMOUNT BUDGETED: Budget: \$0		NAME AND FUND #: General Fund	
ATTACHMENT(S) TO AGENDA PACKET ITEM: • Ordinance 11-0330 • May 23, 2011 Agenda Bill • May 23, 2011, Draft KMC Title 12 Streets and Bridges Revisions, with track changes			
SUMMARY STATEMENT: In 2011, City Staff assumed responsibility for processing and issuing right of way franchise utility permits under Kenmore Municipal Code (KMC) 12.55. These permits were previously reviewed and issued by King County on the City’s behalf as part of the City of Kenmore-King County service agreement. City staff has taken initiation of these services to update the existing right-of-way use and right-of-way utility permit sections of the code to improve the City’s implementation of these services in the future. Additionally as these two chapters were reviewed City Staff found other portions of Title 12 that needed update. A future update will include revisions to Chapter 12.50 Street Standards. The majority of changes are minor for example changing all references to “director” to “city manager” or citations that applied to Counties but not Cities were removed. Some of the more significant changes are: • A definition section originally part of Chapter 12.35 has been moved to the General Provisions chapter to apply to the entire Title. • Section 12.10.060 was deleted as it did not apply to the City of Kenmore. • Chapter 12.35 provided for two permits based on the permit time period. The Chapter has been revised to distinguish between three kinds of permits. ○ Limited – the disturbance to the right of way is short term for either an event or to make an improvement. ○ Access – allows the use of unopened right of way as access to a parcel. ○ Encroachment – allows the use of right of way that will likely not be improved in the foreseeable future for retaining walls and other structures.			

IXB.

Adopt Ordinance No. 11-0330 An Ordinance Revising the Kenmore Municipal

- Chapter 12.35 clearly identified that an application and permit fee applied to these permits.
- The remainder of Chapter 12.35 was reorganized to clearly identify requirements that applied to each permit.
- Permits for driveways are not currently required. Recent complications have arisen when driveways are installed not meeting city standards. Permits will now be required under the proposed code revisions.
- Section 12.55.040, utility construction permit application fees, has been revised to reflect current state law, RCW 35.21.860. Previously fees were based on the amount of work proposed in the right of way. State law limits fee collection to only the costs of issuing the permit. The cost of inspecting the work is covered by Section 12.55.050 and remains unchanged.

On May 23, 2011 the City Council reviewed these changes and called for a public hearing to consider the changes. The hearing is scheduled for July 25, 2011 at the regular City Council meeting.

A draft copy of the proposed KMC Title 12 code revisions with track changes is attached to the Ordinance as well as a track changes version of the code revisions submitted on May 23, 2011. Changes between the May 23, version and the current proposal are editorial and include:

- Using "city" instead of "City of Kenmore" consistent with other code revisions.
- Deleting the severability clauses as there is one clause for the entire Code.
- Revising the order of sections or definitions for clarity.
- Deleting Chapter 12.50 as there were no proposed revisions.
- Miscellaneous editorial and spelling changes.

After holding the public hearing, and if finding there is no need to revise the proposed amendments or additional amendments required, we recommend the City Council adopt the proposed amendments.

CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION:

Consistent with:
2011 -12 Biennial Budget
Finish General Review of Remaining City Contracts

RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION:

Adopt Ordinance 11-0330 Revising the City Code Relating to Streets and Bridges; Amending Kenmore Municipal Code Title 12 Chapters 05, 10, 15, 20, 35, 40, and 55.

**REVIEWED BY FINANCE
DIRECTOR:**

**REVIEWED BY CITY
ATTORNEY:**

APPROVED BY CITY MANAGER:

TODAY'S DATE:
July 9, 2011

REVISION DATE(S):

FILE NAME & PATH (HYPERLINK):
S:\0162 KMC 12.35 and 12.55 Ordinance
Update\110725_Title 12 Revisions-Agenda Bill.doc

**CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 11-0330**

**AN ORDINANCE OF THE CITY OF KENMORE,
WASHINGTON, REVISING THE CITY CODE RELATING
TO STREETS AND BRIDGES; AMENDING KENMORE
MUNICIPAL CODE TITLE 12 CHAPTERS 05, 10, 15, 20, 35, 40,
AND 55.**

WHEREAS, the City Council has adopted Title 12 of the Kenmore Municipal Code (KMC) which provides for the administration of city streets, rights of way and public property; and

WHEREAS, a review of Chapter 12 of the Municipal Code found several citations that were incorrect or required additional clarification; and

WHEREAS, the City has received requests to allow encroachments within the street right of way; and

WHEREAS, the current Kenmore Municipal Code allows for encroachments however the language is confusing; and

WHEREAS, the City would like to ensure that when encroachments are permitted that they are noted on the title of the benefitting property; and

WHEREAS, the City has found the need to issue driveway permits to insure new driveways are located according to standards, are constructed to current standards, and are completed in a timely manner the proposed code revisions require driveway permits; and

WHEREAS, the Municipal Code needs to be modified in compliance with RCW 35.21.860 which specifies the basis for collecting street use utility permit fees; and

WHEREAS, on May 25, 2011, the City sent notice of the proposed amendments to Kenmore Municipal Code Title 12 "Streets and Bridges" to the Washington State Department of Commerce pursuant to RCW 36.70A.106; and

WHEREAS, on June 23, 2011, the City's Responsible Official issued a non-project Determination of Non-Significance pursuant to the State Environmental Policy Act in relation to the proposed amendments to Title 12; and

WHEREAS, on July 25, 2011, the City Council held a public hearing on the proposed revisions to Title 12 and subsequently deliberated on the proposed revisions; and

WHEREAS, these revisions to the Municipal Code will improve the understanding and ability of City Departments to issue permits appropriately;

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

Section 1. Title 12 of the Kenmore Municipal Code is amended as shown in Exhibit A.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance or this application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance, be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 25th DAY OF JULY, 2011.

CITY OF KENMORE

David Baker, Mayor

ATTEST/AUTHENTICATED:

Lynn Batchelor, City Clerk

Approved as to form:

Rod P. Kaseguma, City Attorney

EXHIBIT A

Title 12

STREETS AND BRIDGES

Chapters:

- 12.05 General Provisions**
- 12.10 Official Street System**
- 12.15 Load Restrictions on Streets**
- 12.20 Load Limits on Bridges**
- 12.25 *Repealed***
- 12.30 *Repealed***
- 12.35 Rights-of-Way**
- 12.40 Permit System for City Property**
- 12.45 *Reserved***
- 12.50 Street Standards**
- 12.55 Utilities on City Rights-of-Way**
- 12.58 Wireless Minor Communication Facilities within City Rights-of-Way**
- 12.60 Public and Private Utilities on Real Property**
- 12.65 Snow Emergency Routes**
- 12.70 Sidewalks, Planting Strips and Street Trees**
- 12.75 Integrated Transportation Program**
- 12.80 Intersection Standards**
- 12.85 State Route 522 Access Management Program**

Chapter 12.05

GENERAL PROVISIONS

Sections:

~~12.05.010 Relationship to comprehensive plan and Growth Management Act.~~

12.05.020 Financial guarantees authorized.

12.05.030 Definitions.

~~12.05.010~~

~~Relationship to comprehensive plan and Growth Management Act.~~

~~This title is hereby amended in accordance with Chapter 36.70A RCW to adopt development regulations to implement the city of Kenmore comprehensive plan. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.02.010).]~~

12.05.020

Financial guarantees authorized.

The ~~public works department and~~ department ~~of land development and permitting of community development (or its successor organization)~~ is authorized to require all applicants issued permits or approvals under the provisions of the title to post financial guarantees consistent with the provisions of KMC Title 21. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.02.020).]

12.05.030

Definitions.

This section contains definitions of terms used throughout this title.

A. "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.

B. "City manager" means the City of Kenmore City Manager or his or her designee(s).

C. "City property" means all city real property, including but not limited to recreational trails, parks and dedicated open space.

D. "Department" means the city department or outside agency assigned by the city manager to administer a portion of the city.

E. "Development" means any activity that requires a permit or approval, including, but not limited to, a building permit, grading permit, shoreline substantial development permit, conditional use permit, special use permit, zoning variance or reclassification, subdivision, short subdivision, urban planned development, binding site plan, site development permit or right-of-way use permit.

F. "Encroachment" means any structures permanent in nature, including but not limited to, building extension, marquee, fence, stairway, railing, retaining wall, artwork, or any other building or structure constructed, erected or maintained in, over or under any public place, right-of-way, easement, roadway, parking strip and/or sidewalk, including the airspace above them. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.010).]

G. "Right-of-way use permit, limited" means a permit authorizing the use or improvement of the city right-of-way for a designated purpose typically for a period of time limited to one year or less.

H. "Right-of-way use permit, access" means a permit authorizing the use of unopened city right-of-way for a subdivision or property access typically for a period of time exceeding one year in duration.

I. “Right-of-way use permit, encroachment” means a permit authorizing the use of the city right-of-way for an encroachment, typically for a period of time exceeding one year in duration.

J. “Special use permits” means a permit for the use of city property issued pursuant to this title.

Chapter 12.10

OFFICIAL STREET SYSTEM

Sections:

- 12.10.010 Official street system.
- 12.10.020 Maps are exhibits.
- 12.10.030 Streets included.
- 12.10.040 Revision of street exhibits.
- 12.10.050 Additions and deletions made by ordinance.
- 12.10.060 Streets constructed by Highway Department included.
- 12.10.070 Inclusion of streets which have reverted to city.
- 12.10.080 Inaccuracies corrected.

12.10.010

Official street system.

To provide for the administration, maintenance, and dedication of rights of way and improvement of the city's streets, the city needs to identify the ~~The city manager or his or her designee has been advised by the director of public works that the need exists for an~~ official city ~~of Kenmore~~ street system. This system will be shown on show, by maps and/or exhibits which will also show, the streets for which the city ~~of Kenmore~~ has maintenance responsibility. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.010).]

12.10.020

Maps are exhibits.

The aforementioned maps will also be known as exhibits to be indicated by the sheet designation. Computer sheets contained in a loose-leaf binder shall be used as reference exhibits in conjunction

with the map exhibits. These computer sheets must be revised periodically to correspond with revisions made on the map exhibits. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.030).]

12.10.030

Streets included.

Only those streets ~~which are exclusive of state roads and exclusive of streets~~ within the city of ~~Kenmore~~ shall be considered part of the city of ~~Kenmore~~ street system. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.040).]

12.10.040

Revision of street exhibits.

It shall be the responsibility of the ~~city manager or his or her designee~~ director of public works, or ~~his appointed representative to~~ maintain and revise the city of ~~Kenmore~~ street exhibits upon direction by the city council. Revisions shall be made as soon as practicable after any change occurs. ~~The city manager director of public works shall furnish annually a completely revised and current set of exhibits which shall be used for a period of one year as official designator of city of Kenmore streets.~~ [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.050).]

12.10.050

Additions and deletions made by ordinance.

Authority for additions to, deletions from, or characteristic changes in the streets on the exhibit sheets shall be by ordinance, consistent with RCW 35.78.010 ~~or by statute as set forth in the Revised Code of Washington~~. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.060).]

12.10.060**~~Streets constructed by Highway Department included.~~**

~~All streets constructed by the Washington State Department of Highways in conjunction with, and/or adjacent to, an Interstate Highway, State Primary or State Limited Access Highway and used as access, exit, frontage road or service road and covered by a maintenance agreement between the Washington State Department of Highways and the city of Kenmore shall be considered a part of the city of Kenmore street system whether or not the state has relinquished any or all claim. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.070).]~~

12.10.070**Inclusion of streets which have reverted to city.**

The city ~~of Kenmore~~ street system shall include all streets which reverted to King County prior to incorporation ~~have reverted to the city of Kenmore~~ by virtue of prescriptive rights as set forth in RCW 36.75.070 and 36.75.080. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.080).]

12.10.080**Inaccuracies corrected.**

If any inaccuracies appear on the exhibits in conflict with records on file, the inaccuracies shall be corrected on the exhibits and in no case shall affect the provisions of this chapter or the status of the exhibits as official designators of the official city ~~of Kenmore~~ street system. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.100).]

Chapter 12.15

LOAD RESTRICTIONS ON STREETS

Sections:

12.15.010 Street closure policy.

12.15.020 Winter and emergency load restrictions.

12.15.010

Street closure policy.

The following policy is approved and adopted, and henceforth all street closure and load limit restrictions will be disseminated in accordance with this policy insofar as it is possible to do so:

A. A list of streets which will remain open and available for school bus use during thawing conditions will be supplied to each and every school district operating on city streets within the city-of Kenmore. This will be accomplished during the month of September of each school year.

B. In the event street closures are required, the school district will be notified prior to 1:00 p.m. of the day preceding the street closures on school bus routes, to be effective the following day. If the morning pickup of children is accomplished, the school district will be permitted to use these routes for the returning of the children to their normal bus stops.

C. School buses will be permitted to turn around at the intersection of a school bus route which is closed, and the open route with the minimum maneuvering possible on the closed street in the intersection area.

D. The city will establish the necessary communications with the school districts to provide the proper notification. The city ~~engineer-manager~~ will initiate street closures and unless specified otherwise, closures shall be city-wide. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.12.010).]

12.15.020

Winter and emergency load restrictions.

The following emergency restrictions shall be in effect on city streets during such periods of freezing and thawing conditions as determined by the ~~street engineer~~ city manager:

REGULAR WINTER LOAD RESTRICTIONS

Conventional		Tubeless or Special with 0.5 Marking	
Tire Size	Gross Load Each Tire	Tire Size	Gross Load Each Tire
7.00	1,800 lbs.	8- 22.5	2,250 lbs.
7.50	2,250 lbs.	9- 22.5	2,800 lbs.
8.25	2,800 lbs.	10- 22.5	3,400 lbs.
9.00	3,400 lbs.	11- 22.5	4,000 lbs.
10.0 0	4,000 lbs.	11- 24.5	4,000 lbs.
11.0 0	4,500 lbs.	12- 22.5	4,500 lbs.
12.0 or over 0	4,500 lbs.	12- or over 24.5	4,500 lbs.

EMERGENCY LOAD RESTRICTIONS

Conventional Tires		Tubeless or Special with 0.5 Marking	
Tire Size	Gross Load Each Tire	Tire Size	Gross Load Each Tire
7.00	1,800 lbs.	8- 22.5	1,800 lbs.
7.50	1,800 lbs.	9- 22.5	1,900 lbs.
8.25	1,900 lbs.	10- 22.5	2,250 lbs.
9.00	2,250 lbs.	11- 22.5	2,750 lbs.
10.0 0	2,750 lbs.	11- 24.5	2,750 lbs.
11.0 or over 0	3,000 lbs.	12- or over 22.5	3,000 lbs.

A further load restriction of five tons gross on any vehicle may be placed on streets under severe conditions. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.12.020).]

Chapter 12.20

LOAD LIMITS ON BRIDGES

Sections:

12.20.010 Gross weight allowed and notification.

12.20.020 Limited special permits.

12.20.030 Maximum gross vehicle weight.

12.20.040 Enforcement and penalty.

12.20.050 Severability.

12.20.010

Gross weight allowed and notification.

A. It is unlawful for any person to operate a vehicle over any city ~~of Kenmore~~ bridge when such vehicle has a gross weight that is greater than the posted maximum weight for that bridge, unless the driver is in possession of a limited special permit issued by the city manager ~~city street engineer or designee for the safe use of such bridge.~~

B. Notice of closing of individual bridges to certain classes or weights of vehicles shall be:

1. Published in a local newspaper of general circulation; and

2. Posted on signs at each end of subject bridge, on or prior to the date of publication. All signs shall be erected and maintained in accordance with RCW ~~36.86.040,~~ 46.61.450 and 47.36.030.

C. Maximum gross weights for vehicles operating over city ~~of Kenmore~~ bridges shall be established by ordinance in accordance with RCW ~~36.75.270 and~~ 46.44.080.

D. The city ~~manager street engineer~~ shall have the authority by administrative determination to immediately impose temporary gross weight limits on bridges based on the results of an engineering and traffic investigation. The city manager ~~traffic engineer~~ shall have the authority to immediately erect and maintain official traffic control devices for temporary gross weight limits on bridges ~~as~~

~~directed by the city street engineer and~~ in accordance with Chapter 46.90 RCW, WAC 308-330-265 and Chapter 10.05 KMC. The temporary gross weight limits on bridges shall be in effect for not longer than one year from the date of posting or until the weight limits are established by ordinance. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.010).]

12.20.020

Limited special permits.

The city ~~manager street engineer or designee~~ is authorized to issue limited special permits for the safe use of load limited bridges by emergency vehicles and other vehicles exceeding the posted maximum weight. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.015).]

12.20.030

Maximum gross vehicle weight.

Those city bridges that are posted ~~one legal load~~ are done so pursuant to definitions and standards for maximum gross vehicle weight contained in Chapter 46.44 RCW, particularly the vehicle weight table of RCW 46.44.041. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.020).]

12.20.040

Enforcement and penalty.

~~A. The director of the department of public works and the chief of the police department are authorized to enforce the provisions of this chapter and any rules and regulations promulgated thereunder.~~

~~B. Any violation of this chapter is a traffic infraction and subject to a penalty of \$250.00. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.170).]~~

12.20.050

Severability.

~~Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.180).]~~

Chapter 12.35

RIGHTS-OF-WAY

Sections:

~~12.35.010 Definitions.~~

~~12.35.015 Fee exemptions – Beautification permit.~~

12.35.020 Permit required for improvement or use – Application processing.

~~12.35.025 Time limitation of application.~~

12.35.030 Permit – Additional requirements.

~~12.35.035 Permit – Application Fees.~~

~~12.35.037 Permit – Fees.~~

12.35.040 Permit – Limited.

12.35.050 Permit – ~~Extended~~ Access.

~~12.35.055 Permit – Encroachment.~~

12.35.060 Permit – Application ~~Interpretation.~~

~~12.35.070 Compliance required of driveway connections or other access to city street rights of way.~~

~~12.35.065 Obligation - Revocation.~~

~~12.35.070 Conformance.~~

~~12.35.075 Covenant.~~

~~12.35.077 Permit - Interpretation.~~

12.35.080 Enforcement.

12.35.090 Retroactivity.

~~12.35.100 Effective date.~~

12.35.010

Definitions.

~~— A. “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.~~

~~B. “Department” means the Department of Land Development and Permitting department of community development.~~

~~C. “Development” means any activity that requires a permit or approval, including, but not limited to, a building permit, grading permit, shoreline substantial development permit, conditional use permit, special use permit, zoning variance or reclassification, subdivision, short subdivision, urban planned development, binding site plan, site development permit or right of way use permit.~~

~~C. “Development approval” means the granting of a building permit, mobile home on site permit, short subdivision or other city land use approval or approvals.~~

~~D. “City manager” means the Kenmore city manager or his or her designee, other directors, or any duly authorized representatives of such directors. “Development engineer” means the city of Kenmore employee authorized to oversee the review, conditioning, inspection and acceptance of right of way use permits, street and drainage projects constructed pursuant to permits administered by the city. The development engineer or designee shall be a professional civil engineer registered and licensed under the laws of the state of Washington.~~

~~E. “Right of Way Use Permit”.~~

~~“Right of way use permit” means a right of way user permit limited, extended or encroachment.~~

~~1.F. “Right of way use permit, limited” means a permit authorizing the use of the city right of way for a designated purpose and for a period of time limited to one year or less.~~

~~2.G. “Right of way use permit, extended” means a permit authorizing the use of the city right of way for a designated purpose a subdivision or property access and for a period of time exceeding one year in duration. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.010).]~~

~~H. “Right of way use permit, encroachment” means a permit authorizing the use of the city right of way for a designated purpose and for a period of time exceeding one year in duration.~~

~~I. “Encroachment” means any structures permanent in nature, including but not limited to, building extension, marquee, fence, stairway, railing, retaining wall, artwork, or any other building or structure constructed, erected or maintained in, over or under any public place, right of way, easement, roadway, parking strip and/or sidewalk, including the airspace above them. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.010).]~~

12.35.015

Fee exemptions—Beautification permit.

The purpose of this section is to foster the public benefit by encouraging citizens to beautify publicly owned rights of way, without compromising the public’s safety. For purposes of maintaining a record of all beautification projects, a beautification permit shall be required prior to commencement of a beautification activity. A beautification permit shall be issued without charge for projects that satisfy the following criteria:

A. The project involves the planting of flowers or other vegetation that do not hinder the safe use of the right of way by drivers or others within 10 feet of the fog line or the edge of the pavement, if there is no fog line;

B. The project involves planting adjacent to the applicant’s residence; and

~~C. No shrubs or trees or other structures may be installed planted within 10 feet of the fog line or edge of pavement.~~

~~The city manager engineer may administratively modify these provisions in writing based on his review of a beautification permit application, if the proposal satisfies (1) any applicable legal requirements, and (2) public safety standards, based on the exercise of reasonable engineering judgment. [Ord. 04-0206 § 1.]~~

12.35.020

Permit required for improvement or use – Application processing.

A. Permits Required. City street right-of-way shall not be privately improved or used for access or other purposes and no development approval shall be issued which requires use of privately maintained city right-of-way unless a permit ~~therefor~~ has been issued pursuant to this chapter, except for utility construction work authorized pursuant to Chapter 12.55 KMC. ~~This section shall not apply to driveway connections from private property to city street right-of-way.~~

B. General Procedures.

1. Upon receipt of an application for right-of-way use permit, limited, ~~or extended access, or encroachment~~ the city manager ~~shall forward copies of the application to the division of real property, which~~ shall determine whether the proposed activity is within city-owned right-of-way.

2. The city shall be the lead agency for the compliance with the State Environmental Policy Act. In addition, the city manager ~~development engineer~~ shall review applications for compliance with applicable city plans, policies, regulations and standards. Prior to issuing a right-of-way use permit, the city manager may shall determine and secure an appropriate financial guarantee consistent with the provisions of KMC Title 21.

3. The city manager shall, when feasible, consolidate right-of-way use permits with other development approvals to prevent duplication and increase efficiency. The fee for a consolidated

approval shall be reduced to the extent separate fees would be duplicative. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.020).]

12.35.025

Time limitation of application.

A. Applications for which no permit is issued within 18 months following the date of application shall expire by limitation and plans and other data submitted for review may thereafter be returned to the applicant or destroyed in accordance with state law.

B. Applications may be canceled for inactivity, if an applicant fails to respond to the department's written request for revisions, corrections, actions or additional information within 90 days of the date of request. The city manager may extend the response period beyond 90 days if within the original 90 day time period the applicant provides and subsequently adheres to an approved schedule with specific target dates for submitting the full revisions, corrections or other information needed by the department.

12.35.030

Permit – Additional requirements.

A. Plans. Detailed engineering and restoration plans and/or drainage plan ~~pursuant to Chapter 13.35 KMC~~ may be required when considered necessary by the ~~city manager~~ development engineer. Costs for the development of such plan and conduct of required studies shall be borne by the ~~permit~~ applicant and, if the plan is returned, it shall be returned to the applicant.

B. Survey. When considered necessary by the ~~city manager~~ development engineer to adequately define the limits of right-of-way, the ~~permit~~ applicant shall

cause the right-of-way to be surveyed by a licensed land surveyor. Such survey shall be recorded in accordance with the Survey Recording Act.

C. Dedication. An ~~permit~~ applicant may be required to deed additional right-of-way across property under his ownership authority when necessary to fulfill the minimum street right-of-way width prescribed in RCW 36.86.010.

D. Illegal Subdivision. A permit shall not be issued to provide access to a lot or parcel created in violation of state and city subdivision regulations. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.030).]

12.35.035

Application – Fees.

A. Each application requires a fee, imposed by city council by resolution, payable to the city for the administrative costs and expanses of processing the application.

B. The purpose of this subsection B is to foster the public benefit by encouraging citizens to beautify publicly owned rights of way, without compromising the public's safety. For purposes of maintaining a record of all beautification projects, a beautification permit shall be required prior to commencement of a beautification activity. A beautification permit shall be issued without charge for projects that satisfy the following criteria:

1. The project involves the planting of flowers or other vegetation that does not hinder the safe use of the right-of-way by drivers or others within 10 feet of the fog line or the edge of the pavement, if there is no fog line;

2. The project involves planting adjacent to the applicant's residence; and

3. No shrubs or trees are installed within 3 feet of a curb line or where no curb exists, within 10 feet of the fog line or edge of pavement.

12.35.037

Permit – Fees.

A. The permittee shall pay a fee at a rate imposed by the city council by resolution per hour for inspection.

B. The permittee shall also pay a fee for use of the right of way based on a policy approved by the by city council by resolution.

C. The fees shall be collected in accordance with administrative procedures developed by the department.
[Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 02-0139 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.045).]

12.35.040

Permit – Limited.

A. Upon filing of a complete application, payment of the fee, and posting of the ~~required~~ financial guarantee for construction, maintenance, and restoration of the right-of-way consistent with the provisions of KMC Title 21, the city manager may issue a permit authorizing the limited use of city street right-of-way, for use by designated private parties for a specific use ~~which is less than one year in duration.~~

B. The permit may require construction and restoration of the right-of-way to adopted city standards based on the nature and duration of the specific use, and subject to ~~division~~ inspection. In addition, conditions may be set to assure the compliance with city plans, policies, standards and regulations. Such conditions may require performance in excess of adopted street standards.

C. The ~~permit~~ applicant shall assume sole responsibility for the safe and adequate operation and maintenance of any improvements to the city right-of-way during the period of time the permit is in effect.

D. The ~~permit~~ applicant may apply for ~~an a one one year~~ extension to the ~~right-of-way use~~ permit ~~—, limited~~, upon written application for an extension, payment of the fees, and being found to be in compliance ~~have fully complied~~ with the conditions and requirements of the original permit. ~~The application for extension may only be made after the first six months of the original permit life.~~

E. Types of Right-of-Way Permits, Limited

2

1. Type A. Activity which will alter the surface or subsurface of the right-of-way. Examples are:

- a. ~~Paving operations~~Culvert installation;
- b. Driveway installations;
- c. Sidewalk installations;~~Paving operations in right-of-way.~~
- d. Open-cut trenching;
- e. Above ground pedestal or utility box installations;
- f. Culvert installation;
- g. Shoulder improvements; and
- h. Beautification.

2. Type B. Temporary use of the right-of-way (24 hours or less) which does not change the right-of-way surface or subsurface. Examples are:

- a. Temporary storage of a dumpster/storage container;
- b. Block party; and
- c. Temporary parking.

3. Type C. Temporary use of the right-of-way (more than 24 hours) which does not change the surface or subsurface. Also activities that will require traffic plan and traffic plan review. Examples are:

- a. Street closures (fair or carnival);
- b. Commercial activities in the right-of-way; and
- c. Extended storage in right-of-way. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 00-0088 (Exh.

B); Ord. 98-0024 §§ 1, 2 (KCC 14.28.050).]

12.35.050

Permit – ~~Access-Extended.~~

A. Upon filing of a complete application and payment of ~~the~~ fee, the city manager may issue a permit authorizing the use of ~~the-unopened~~ city right-of-way for ~~property access a-designated use and~~ for a period exceeding one year in duration.

B. The applicant may be required to construct ~~street improvements a-street~~ to ~~the specific standards which may include full compliance with~~ adopted city ~~of Kenmore~~-street standards, and may be required to post financial guarantees consistent with the provisions of KMC Title 21 for construction, restoration and maintenance. Construction work and all restoration work required by the permit shall be completed within one year of the permit's issuance. In addition, the city manager may set conditions to assure compliance of the permit with other adopted plans, city policies, and regulations.

C. The ~~city manager department of public works~~ shall place and maintain permanent sign(s) denoting the end of the city-maintained street.

D. The applicant shall have sole responsibility for the safe construction, operation and maintenance of any improvements to the city right-of-way pursuant to the permit, until such time as the improvements are officially accepted for maintenance by the city ~~of Kenmore~~.

~~E. Unless earlier revoked by the city manager, any permit shall be valid for a term of one year and shall be automatically renewable for successive one-year terms.~~

~~E. The permit applicant may be required to record a covenant running with the land and for the benefit of the city of Kenmore, which contains:~~

~~1. A legal description of the lot or parcel to be served by the right-of-way use permits, limited or extended;~~

- ~~2. A statement indicating that access to such parcel is across an unmaintained city right of way, that the city is not responsible for maintenance of the right of way and that responsibility for maintenance of the street rests jointly and equitably upon all permit holders;~~
- ~~3. A statement that the owner(s) of the parcel will not oppose participation in a city street improvement district, if formation of such a district is deemed necessary by the city of Kenmore;~~
- ~~4. A prohibition against subdividing such parcel without obtaining either plat or short plat approval therefor, or if exempt from platting, a right-of-way use permit for the additional lots being created;~~
- ~~5. A statement that the right of way use permit covenant is binding on the successors and assigns of the owner(s); and~~
- ~~6. The acknowledged signature(s) of the owner(s) of such parcel.~~

12.35.055

Permit – Encroachment.

A. Upon filing of a complete application and payment of the fee, the city manager may issue a permit authorizing the use of the city right-of-way for an encroachment for a period exceeding one year in duration.

~~FB. Authorized. A right-of-way use~~ An encroachment permit may be issued to authorize private construction in public rights-of-way ~~that are characterized by steep slopes, significant wetlands, other critical areas, or any other topographical characteristic which makes when it is~~ unlikely in the judgment of the city manager that such public right-of-way will be substantially improved by the city or other public agency within the foreseeable future.

In exercising such judgment, the city manager may consider existing traffic data in and around the site of the permit application, the city's adopted transportation improvement plan, and any other studies, data, or other information that he deems relevant to his determination.

C. The applicant shall have sole responsibility for the safe construction, operation and maintenance of any improvements within the city right-of-way pursuant to the permit.

A. Unless earlier revoked by the city manager, any such encroachment permit issued shall be valid for a term of one year and shall be automatically renewable for successive one-year terms.

12.35.060

Permit Application.

An applicant for a right-of-way use permit issued pursuant to this chapter shall complete an application in a form prescribed by the city manager. The city manager may reject incomplete application forms. Such application form shall require an applicant to identify the right-of-way to be used, the nature of the related development on the adjacent private property, and such other information as the city manager reasonably determines to be necessary, in relation to the specific project proposed. Such other information may include geotechnical studies, proof of liability insurance, performance bonding, and other measures designed to protect the public health, safety, and welfare.

~~Unless earlier revoked by the city manager, any such encroachment right of way permit issued shall be valid for a term of one year and shall be automatically renewable for successive one year terms upon the payment of an annual fee.~~

12.35.065

Obligation - Revocation.

This Chapter authorizes the city manager to engage in discretionary acts and does not create any obligation on the part of the city to issue any such right of way use permits nor does it create any right on the part of an applicant to initially obtain or subsequently retain any such right of way permit. Any such permit actually issued shall be revocable at any time after 90 days' written notice from the city manager to the permit holder. The city manager's revocation notice shall include a date by which the private use of the right-of-way must be discontinued and removed, all at the sole

expense of the permit holder. Any private use of the right-of-way remaining after such date shall constitute a public nuisance and shall be abated as such. The cost of abatement, including the city's attorney fees, shall be borne by the permit holder. There shall be no administrative ~~nor judicial~~ appeal from any such decision by the city manager to revoke any such permit.

G12.35.070

Conformance.

Any requirement imposed by this chapter shall be in addition to any other requirement imposed by any other ordinance or other law regulating or controlling the use and development of private or public property. Such additional requirements include but are not limited to any necessary setback variances. A permit issued pursuant to this chapter may not authorize any use or development otherwise not allowed or permitted under any other ordinance. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 00-0085 §§ 1, 3; Ord. 98-0024 §§ 1, 2 (KCC-~~14.28.060~~14.28.080).]

12.35.075

Covenant.

The applicant for a right of way use permit, limited, access or encroachment, may be required to record a covenant running with the land and for the benefit of the city, which contains:

1. A legal description of the lot or parcel to benefiting from the right-of-way use permit;
2. If the permit is for access, a statement indicating the following:
 - a. Access to such parcel is across an unmaintained city right-of-way; the city is not responsible for maintenance of the right-of-way; and responsibility for maintenance of the street rests jointly and equitably upon all permit holders;
 - b. The owner(s) of the parcel will not oppose participation in a city street improvement district, if formation of such a district is deemed necessary by the city; and

c. Subdivision of such parcel is prohibited without obtaining either plat or short plat approval;

3. If the permit is for an encroachment, a statement indicating the following:

a. Maintenance of the encroachment is the responsibility of the property owner; and

b. Acknowledgement that the encroachment must be removed by the property owner within

90 days at the request of the city manager;

4. A statement that any right-of-way use permit covenant is binding on the successors and assigns of the owner(s);

5. The acknowledged signature(s) of the owner(s) of such parcel; and

6. The right of way use permit may be revocable with 90 days written notice.

12.35.060077

Permit – Interpretation.

Permits issued pursuant to this ~~C~~chapter shall not be construed to convey any vested right or ownership interest in any city right-of-way. Every right-of-way use permit shall state on its face that any city right-of-way opened pursuant to this chapter shall be open to use by the general public except in those cases where specific conditions in a right-of-way use permit, ~~limited,~~ restrict the use of the right-of-way for safety reasons. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.070).]

12.35.070

~~Compliance required of driveway connections or other access to city street rights-of-way.~~

~~No driveway connection or other access from private property to a city street right-of-way shall be built or maintained which does not comply with the city of Kenmore street standards. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.080).]~~

12.35.080

Enforcement.

The ~~city manager~~ ~~director of the department of public works and the director of the department of planning and community development~~ isare authorized to enforce the provisions of this chapter, and any rules and regulations promulgated thereunder pursuant to ~~the enforcement and penalty provisions of~~ Chapter 1.20 KMC. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.090).]

12.35.090

Retroactivity.

All ~~access approvals, trail permits and~~ right-of-way use permits issued by the city ~~of Kenmore~~ prior to the effective date of this chapter shall not be affected by the provisions of this chapter. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.100).]

~~12.35.100~~

~~Effective date.~~

~~The ordinance codified in this chapter shall become effective 30 days after signing by the city manager, or his or her designee. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.110).]~~

Chapter 12.40

PERMIT SYSTEM FOR CITY PROPERTY

Sections:

~~12.40.010 Definitions.~~

12.40.020 Permit requirement.

12.40.040 Permit issuance.

12.40.050 Liability.

12.40.060 Additional requirements.

12.40.080 Interpretation.

12.40.090 Enforcement.

12.40.100 Severability.

12.40.010

Definitions.

~~A. "City property" means all city real property, including but not limited to recreational trails, city street rights of way and dedicated open space.~~

~~B. "Special use permits" means a permit for the use of city property issued pursuant to this chapter.~~

~~C. "Custodial departments" means those city departments whose function it is to manage and control city use of said rights of way or other city property. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.010).]~~

12.40.020

Permit requirement.

A. Special use permits shall be required for any use of city property, except uses regulated pursuant to Chapter 12.55 KMC relating to utility permits and Chapter 12.35 KMC relating to city street system rights-of-way use permits.

B. Upon receipt of an application for a “special use” permit upon city property, the city manager of Kenmore shall determine whether the proposed use is upon city-owned property.

C. The city manager of Kenmore shall forward the application to all city custodial ~~the~~ department(s) for review.

D. The custodial department(s) shall review the application and forward to the city manager its recommendation whether the permit shall be issued, ~~by the city of Kenmore. If a custodial department recommends denial, the city of Kenmore shall deny the permit.~~

E. ~~The~~ If there is no custodial department(s) with jurisdiction over the city property, the city of Kenmore shall evaluate the feasibility of the proposed use, its impact on other uses of the city property and its impact on public health and safety. Based on this evaluation, the department(s) city of Kenmore shall recommend ~~determine~~ whether the permit should be issued.

F. In all cases, the ~~city of Kenmore shall forward the application to the~~ department(s) ~~of community development for recommendations on critical area issues and the city of Kenmore~~ shall be responsible for assuring that any application meets the requirements of the critical areas code set out in Chapter 18.55 KMC and the administrative rules promulgated thereunder before the permit is issued. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.020).]

12.40.040

Permit issuance.

A. Upon filing of a complete application, necessary approval of ~~the said~~ application, ~~and the~~ payment of the administrative fee and posting of any required bond, the city ~~manager of Kenmore~~ may issue a permit authorizing the designated use of city property by the permittee.

B. The permit may require restoration of the city property to certain standards ~~prescribed by the custodial department and the city of Kenmore~~ in view of the nature and duration of the special use. In addition, conditions may be set ~~by the city of Kenmore~~ to assure compliance of the permit with city policies, ordinances and other applicable laws and regulations.

C. The permit applicant may be required to post a performance bond in an amount which will:

1. Guarantee the use will be in compliance with standards and conditions prescribed by the ~~city of Kenmore; and~~

2. Guarantee restoration of the city property to a condition consistent with the special use permit and the city's own use of its property. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.030).]

12.40.050

Liability.

The permit applicant shall be solely responsible for the adequate operation and maintenance of any improvements constructed by the permittee to the city property and shall assume liability for all injuries to persons or property as the result of activities pursuant to a special use permit. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.040).]

12.40.060

Additional requirements.

A. Survey. When considered necessary by the city ~~manager of Kenmore~~ to adequately determine the limits of the city property, the permit applicant shall cause the city property to be surveyed by a licensed land surveyor. Such survey shall be recorded in accordance with the Survey Recording Act. The cost of such survey shall be paid by the permit applicant.

~~B. Dedication. A permit applicant may be required to deed additional right of way across property under his authority when necessary to fulfill any city policy, ordinance or laws. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.050).]~~

12.40.080

Interpretation.

Permits issued pursuant to this chapter shall not be construed to convey any vested right of ownership interest in any city property. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.070).]

12.40.090

Enforcement.

The city manager is authorized to enforce the provisions of this chapter, pursuant to Chapter 1.20 KMC. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.080).]

12.40.100

Severability.

~~Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining~~

~~portions of this chapter. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.090).]~~

Chapter 12.55

UTILITIES ON CITY RIGHTS-OF-WAY

Sections:

- 12.55.010 Purpose.
- 12.55.020 Construction permit – Required.
- 12.55.030 Construction permit – Application – Generally.
- 12.55.040 Construction permit – Application – Fees.
- 12.55.050 Inspection fee.
- 12.55.060 Construction permit – Application – Review.
- 12.55.070 Emergency construction permits – Unfranchised utilities.
- 12.55.080 Policy on accommodation of utilities.
- 12.55.090 Coordination of right-of-way construction.
- 12.55.100 Performance guarantee required.
- 12.55.110 Construction permit – Form.
- 12.55.120 Notification by permittee of construction commenced.
- 12.55.130 Enforcement.
- ~~12.55.135 – Productivity and customer service report.~~
- 12.55.140 Severability.

12.55.010**Purpose.**

The purpose of this chapter is to regulate the granting of right-of-way construction permits and to ensure that utility construction work undertaken pursuant to such permits is consistent with the applicant's right-of-way franchise from the city, the applicable district comprehensive plan, the critical areas code, the city comprehensive plan, sound engineering and design standards, health and sanitation regulations, and city standards for water mains and fire hydrants. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.010).]

12.55.020**Construction permit – Required.**

A. All construction work performed by franchised utilities, telephone and telegraph companies and within city ~~of Kenmore~~ right-of-way shall require a right-of-way construction permit to be issued by the city ~~of Kenmore~~; provided, that construction work undertaken by the city ~~of Kenmore~~ or under contract to the city ~~of Kenmore~~ or requested by the city ~~of Kenmore~~ due to new construction shall be exempted from this requirement. Construction work shall include but not be limited to the construction and maintenance of waterlines, gas pipes, sewer lines, petroleum pipelines, telephone, telegraph and electric lines, cable TV and petroleum products and any other such public and private utilities.

B. ~~The Department of Transportation and~~ ~~The city of Kenmore~~, during the construction of capital improvement projects, shall install vacant conduit reserved for the future installation of fiber optic cable in accordance with the city's ~~of Kenmore's~~ I-net and wide area network plans; all capital improvement projects not requiring trenching or modification to the subgrade, such as overlays and shoulder widening, shall be exempted from this requirement. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.020).]

12.55.030

Construction permit – Application – Generally.

Applications for all right-of-way construction permits shall be submitted, in writing, to the city ~~of Kenmore~~. The application shall contain whatever information, including plans and specifications, which the city ~~of Kenmore~~ shall require. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.030).]

12.55.040

Construction permit – Application – Fees.

~~Effective January 1, 2002, Each application requires a fee, imposed by the city council by resolution, payable to the city of Kenmore for the administrative costs and expenses of processing the application. These fees shall be equal to the administrative costs of approving the permit, including but not limited to preparing the permit, review, processing, coordinating review with other departments, preparing environmental documents, etc.~~

~~A. Pole lines—Power, telephone, etc. (every six poles or portion thereof).~~

~~B. Water:~~

~~1. Installing mains (1,000 linear feet or less).~~

~~2. Additional 1,000 linear feet or fraction thereof.~~

~~3. Excavation for connection.~~

~~C. Sewer:~~

~~1. Installation of mains (1,000 feet or fraction thereof).~~

~~2. Additional 1,000 linear feet or fraction thereof.~~

~~3. Excavation for connection.~~

~~D. Cable or Conduit:~~

~~1. Installing cable or conduit (1,000 feet or less).~~

~~2. Additional 1,000 linear feet or fraction thereof.~~

~~3. Excavation in street for connection.~~

~~E. Gas or Oil.~~

~~1. Installing mains (1,000 linear feet or less).~~

~~2. Additional 1,000 feet or fraction thereof.~~

~~3. Excavation for connection.~~

~~F. Attachment to existing poles for every three attachments.~~

~~G. Immediate Response Permit Requests. In addition to the required permit fees an additional fee shall be charged. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 02-0139 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.040).]~~

12.55.050

Inspection fee.

A. The permittee shall pay to the department an inspection fee at the rate imposed by the city council by resolution per hour of utility inspection ~~to the department~~. The ~~fees are~~ fee is in addition to any other city fees and ~~is are~~ nonrefundable.

B. The ~~fees~~ shall be collected in accordance with administrative procedures developed by the ~~D~~department ~~of Public Works~~. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 02-0139 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.045).]

12.55.060

Construction permit – Application – Review.

A. ~~The The Public Works dDepartment –city of Kenmore~~ shall coordinate the review by all departments of right-of-way construction permit applications and shall determine whether the proposed construction is consistent with the applicant's right-of-way franchise from the city.

B. The ~~d~~Department ~~of Public Works~~ shall review and evaluate applications in respect to the hazard and risk of the proposed construction, location of the proposed construction in relation to

other utilities in the right-of-way and the adequacy of the engineering and design of the proposed construction.

C. The ~~department~~ Department of public Works shall review and evaluate all applications for right-of-way construction permits for sewer and water main extensions to determine whether the proposed construction is consistent with the sewer or water comprehensive plan approved by the city council. If the facility is not consistent with an approved comprehensive plan, then the construction permit shall not be issued. Applications for those water utilities with Group A non-expanding public water systems that are not required to prepare comprehensive plans for approval by the city council shall be approved if all other conditions of this chapter are met. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.050).]

12.55.070

Emergency construction permits – Unfranchised utilities.

A. The city ~~of Kenmore~~ may issue right-of-way construction permits to unfranchised utilities under the following circumstances:

1. When the Seattle-King County department of public health has determined that the proposed work is necessary to address a public health hazard; or
2. When the ~~streets division, department of public works,~~ city manager has determined that the proposed work is necessary to address actual or imminent damage to city right-of-way or to address hazards to users of city right-of-way.

~~B. No right-of-way construction permit for sewer or water facility construction shall be issued unless the city of Kenmore receives a determination from the chair of the utilities technical review committee that the proposed work is consistent with the city of Kenmore comprehensive plan.~~

~~C. The permit applicant shall be required to meet all conditions of this chapter, except KMC 12.55.060(A) and (C). [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.055).]~~

12.55.080

Policy on accommodation of utilities.

A. Adoption. "King County Regulations for Accommodation of Utilities on County Road Rights-of-Way, 1997", or as later amended, is hereby approved and adopted as the city ~~of Kenmore~~-policy for utility installation and maintenance operations within the city of Kenmore street rights-of-way. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.060).]

12.55.090

Coordination of right-of-way construction.

A. The applicant, at the time of submitting an application for a right-of-way construction permit, shall notify all other public and private utility entities known to be using or proposing to use the same right-of-way of the applicant's proposed construction and the proposed timing of such construction. Any such entity notified may, within seven days of such notification, request a delay in the commencement of such proposed construction for the purpose of coordinating other right-of-way construction with that proposed by the applicant.

B. The city ~~of Kenmore~~ shall also coordinate the approval of right-of-way construction permits with city street improvements and maintenance and may delay the commencement date for the applicant's right-of-way construction for 90 days or less, except in the case of emergencies, if it finds that such delay will reduce the inconvenience to city street users from construction activities, if it finds that such delay will not create undue economic hardship on the applicant, or if it finds that such delay will allow the city to install conduit for future installation of fiber optic cable.

C. The city ~~of Kenmore~~ shall inform the Washington State Department of Transportation of all right-of-way construction permits issued within the SR 522 right of way or within one city block.

D. The city ~~of Kenmore~~ shall review forward copies of all right-of-way construction permit applications for projects 1,000 feet or longer to ~~the department of information and administrative~~

~~services. The division of information technology services will~~ determine, within 15 working days, whether the installation of conduit may be needed for the future installation of fiber optic cable to connect city or other public facilities. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.070).]

12.55.100

Performance guarantee required.

Prior to final approval of all right-of-way construction permits, the department ~~of public works~~ shall determine the amount of the performance guarantee necessary to assure compliance with the approved construction plans, applicable state and local health and sanitation regulations, and city standards ~~for water mains and fire hydrants~~ and to assure proper restoration of the street and the health and safety of the users of the street. If required, ~~t~~The applicant shall submit the financial guarantee consistent with the provisions of KMC Title 21. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.080).]

12.55.110

Construction permit – Form.

The right-of-way construction permit granted shall be in a form approved by and be made subject to all reasonable and necessary terms and conditions imposed by the department ~~of public works~~. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.090).]

12.55.120

Notification by permittee of construction commenced.

The permittee ~~shall is required to~~ give oral or written notice of the date of commencement of construction ~~will begin~~ to the following agencies: department ~~of public works~~ for all right-of-way construction, Seattle-King County department of public health for construction of waterworks (except for domestic service connections), and city ~~of Kenmore~~ fire marshal for waterworks. Failure

to give such notice is grounds for the revocation or suspension of the construction permit. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.100).]

12.55.130

Enforcement.

The ~~city manager~~director of the department of public works and the director of the Seattle-King County department of public health are authorized to enforce the provisions of this chapter, the ordinances codified in it, and any rules and regulations adopted hereunder pursuant to the enforcement and penalty provisions of Chapter 1.20 KMC. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.110).]

12.55.135

Productivity and customer service report.

~~Concurrent with the annual submittal of the city proposed budget, on or about October 1st of each year, a report shall be provided to the city council by the city managerpublic works department or its successor detailing performance measurements for each function within the permit and franchises section or its successor. The performance measurements shall include historical reporting for the current year to date and the preceding three years. The data reported is to include, but not be limited to: the number of permits and other transactions processed and the number of employees for each period; the average, longest and shortest periods of time for permits processed by the department for each year; the criteria used to determine the value of easements and of annual fees for use of city property, demonstrating utilization of commonly accepted principles of real estate appraisal; and the appraisal reports and fee calculation formulas for easements and annual fees for all fees assessed in excess of \$1,000. [Ord. 03-0180 §§ 1, 2 (KCC 14.44.115).]~~

~~12.55.140~~

~~**Severability.**~~

~~If any provision of this chapter 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 chapter. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.120).]~~

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Direct City Staff to Schedule a Public Hearing on July 25, 2011 to Consider Adoption of Proposed Revisions to Kenmore Municipal Code (KMC) Title 12, Streets and Bridges			May 23, 2011
DEPARTMENT	DIRECTOR	MEETING ATTENDEES	PHONE
Engineering	Ron Loewen	Ron Loewen, Staff Kent Vaughan, Staff	(425) 398-8900
COST OF PROPOSAL: <u>Staff Cost:</u> Preparing agenda bill 2 hours Preparing code revisions 50 hours City Attorney Review 4 hours		ACCOUNT NUMBER: 01 32 5001 Regular Salary & Wages	
AMOUNT BUDGETED: Budget: \$0		NAME AND FUND #: General Fund	
ATTACHMENT(S) TO AGENDA PACKET ITEM: • Draft KMC Title 12 Streets and Bridges Revisions, with track changes • Draft KMC Title 12 Streets and Bridges Revisions, clean version			
SUMMARY STATEMENT: In 2011, City Staff assumed responsibility for processing and issuing right of way franchise utility permits under Kenmore Municipal Code (KMC) 12.55. These permits were previously reviewed and issued by King County on the City's behalf as part of the City of Kenmore-King County service agreement. City staff has taken initiation of these services to update the existing right-of-way use and right-of-way utility permit sections of the code to improve the City's implementation of these services in the future. Additionally as these two chapters were reviewed City Staff found other portions of Title 12 that needed update. A future update will include revisions to Chapter 12.50 Street Standards. A draft copy of the proposed KMC Title 12 code revisions (with track changes and clean version) is included in the agenda packet. The majority of changes are minor for example changing all references to "director" to "city manager" or citations that applied to Counties but not Cities were removed. Some of the more significant changes are: • A definition section originally part of Chapter 12.35 has been moved to the General Provisions chapter to apply to the entire Title. • Section 12.10.060 was deleted as it did not apply to the City of Kenmore. • Chapter 12.35 provided for two permits based on the permit time period. The Chapter has been revised to distinguish between three kinds of permits. ○ Limited – the disturbance to the right of way is short term for either an event or to make an improvement. ○ Access – allows the use of unopened right of way as access to a parcel. ○ Encroachment – allows the use of right of way that will likely not be improved in the foreseeable future for retaining walls and other structures.			

IXB.

Adopt Ordinance No. 11-0330 An Ordinance Revising the Kenmore Municipal

• Chapter 12.35 clearly identified that an application and permit fee applied to these permits. • The remainder of Chapter 12.35 was reorganized to clearly identify requirements that applied to each permit. • Section 12.55.040, utility construction permit application fees, has been revised to reflect current state law, RCW 35.21.860. Previously fees were based on the amount of work proposed in the right of way. State law limits fee collection to only the costs of issuing the permit. The cost of inspecting the work is covered by Section 12.55.050 and remains unchanged.		
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION: Consistent with: 2011 -12 Biennial Budget Finish General Review of Remaining City Contracts		
RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Direct City Staff to schedule a public hearing on July 25 th , 2011 to consider adoption of proposed revisions to Kenmore Municipal Code Title 12 Street and Bridges.		
REVIEWED BY FINANCE DIRECTOR:	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER: 
TODAY'S DATE: May 9, 2011	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK): S:\0162 KMC 12.35 and 12.55 Ordinance Update\2010-12-17-Rights-of-way and Utilities on City Rights-of-way Code Revisions-Agenda Bill.doc

May 23, 2011

Draft KMC Title 12 Streets and Bridges Revisions
With Track Changes

Title 12
STREETS AND BRIDGES

Chapters:

- 12.05 General Provisions**
- 12.10 Official Street System**
- 12.15 Load Restrictions on Streets**
- 12.20 Load Limits on Bridges**
- 12.25 *Repealed***
- 12.30 *Repealed***
- 12.35 Rights-of-Way**
- 12.40 Permit System for City Property**
- 12.45 *Reserved***
- 12.50 Street Standards**
- 12.55 Utilities on City Rights-of-Way**
- 12.58 Wireless Minor Communication Facilities within City Rights-of-Way**
- 12.60 Public and Private Utilities on Real Property**
- 12.65 Snow Emergency Routes**
- 12.70 Sidewalks, Planting Strips and Street Trees**
- 12.75 Integrated Transportation Program**
- 12.80 Intersection Standards**
- 12.85 State Route 522 Access Management Program**

Chapter 12.05

GENERAL PROVISIONS

Sections:

~~12.05.010 Relationship to comprehensive plan and Growth Management Act.~~

12.05.020 Financial guarantees authorized.

12.05.030 Definitions.

~~12.05.010~~

~~Relationship to comprehensive plan and Growth Management Act.~~

~~This title is hereby amended in accordance with Chapter 50.70A RCW to adopt development regulations to implement the city of Kenmore comprehensive plan. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.02.010).]~~

12.05.020

Financial guarantees authorized.

The public works department and department of land development and permitting of community development (or its successor organization) is authorized to require all applicants issued permits or approvals under the provisions of the title to post financial guarantees consistent with the provisions of KMC Title 21. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.02.020).]

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12.05.030

Definitions.

A. A "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

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or easement owner to be the applicant in an application for a development proposal permit or approval.

B. "Department" means the city department or outside agency assigned by the city manager to administer a portion of the city code ~~Department of Land Development and Permitting~~ department of community development.

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C. "Development" means any activity that requires a permit or approval, including, but not limited to, a building permit, grading permit, shoreline substantial development permit, conditional use permit, special use permit, zoning variance or reclassification, subdivision, short subdivision, urban planned development, binding site plan, site development permit or right-of-way use permit.

~~C. "Development approval" means the granting of a building permit, mobile home on-site permit, short subdivision or other city land use approval or approvals.~~

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D. "City manager" means the City of Kenmore City Manager or his or her designee(s), ~~other directors, or any duly authorized representatives of such directors.~~ "Development engineer" means the city of Kenmore employee authorized to oversee the review, conditioning, inspection and acceptance of right-of-way use permits, street and drainage projects constructed pursuant to permits administered by the city. The development engineer or designee shall be a professional civil engineer registered and licensed under the laws of the state of Washington.

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~~E. "Right of Way Use Permit":~~

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~~"Right of way use permit" means a right-of-way user permit limited, extended or encroachment.~~

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~~+E. F. "Right-of-way use permit, limited" means a permit authorizing the use or improvement of the city right-of-way for a designated purpose typically and for a period of time limited to one year or less.~~

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~~2.FG. "Right-of-way use permit, extended access" means a permit authorizing the use of the unopened city right-of-way for a designated purpose a subdivision or property access and typically~~

for a period of time exceeding one year in duration. ~~[Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.010).]~~

GH. "Right-of-way use permit, encroachment" means a permit authorizing the use of the city right-of-way for a designated purpose, an encroachment, and typically for a period of time exceeding one year in duration.

HI. "Encroachment" means any structures permanent in nature, including but not limited to, building extension, marquee, fence, stairway, railing, retaining wall, artwork, or any other building or structure constructed, erected or maintained in, over or under any public place, right-of-way, easement, roadway, parking strip, and/or sidewalk, including the airspace above them. ~~[Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.010).]~~

I. "City property" means all city real property, including but not limited to recreational trails, parks and dedicated open space.

J. "Special use permits" means a permit for the use of city property issued pursuant to this title.

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Chapter 12.10

OFFICIAL STREET SYSTEM

Sections:

- 12.10.010 Official street system.
- 12.10.020 Maps are exhibits.
- 12.10.030 Streets included.
- 12.10.040 Revision of street exhibits.
- 12.10.050 Additions and deletions made by ordinance.
- 12.10.060 Streets constructed by Highway Department included.
- 12.10.070 Inclusion of streets which have reverted to city.
- 12.10.080 Inaccuracies corrected.

12.10.010

Official street system.

~~To provide for the administration, maintenance, dedication of rights of way and improvement of the city's streets, the city needs to identify the~~ The city manager or his or her designee has been advised by the director of public works that the need exists for an official city of Kenmore street system. This system will be shown on show, by maps and/or exhibits which will also show, the streets for which the city of Kenmore has maintenance responsibility. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.010).]

12.10.020

Maps are exhibits.

The aforementioned maps will also be known as exhibits to be indicated by the sheet designation. Computer sheets contained in a loose-leaf binder shall be used as reference exhibits in conjunction

with the map exhibits. These computer sheets must be revised periodically to correspond with revisions made on the map exhibits. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.030).]

12.10.030

Streets included.

Only those streets which are exclusive of state roads and exclusive of streets within the city of Kenmore shall be considered part of the city of Kenmore street system. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.040).]

12.10.040

Revision of street exhibits.

It shall be the responsibility of the ~~city manager or his or her designee~~ director of public works, or his appointed representative to maintain and revise the city of Kenmore street exhibits upon direction by the City Council. Revisions shall be made as soon as practicable after any change occurs. The ~~city manager~~ director of public works shall furnish annually a completely revised and current set of exhibits which shall be used for a period of one year as official designator of city of Kenmore streets. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.050).]

12.10.050

Additions and deletions made by ordinance.

Authority for additions to, deletions from, or characteristic changes in the streets on the exhibit sheets shall be by ordinance ~~or by statute as set forth in the Revised Code of Washington~~. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.060).]

12.10.060

Streets constructed by Highway Department included.

All streets constructed by the Washington State Department of Highways in conjunction with, and/or adjacent to, an Interstate Highway, State Primary or State Limited Access Highway and used as access, exit, frontage road or service road and covered by a maintenance agreement between the Washington State Department of Highways and the city of Kenmore shall be considered a part of the city of Kenmore street system whether or not the state has relinquished any or all claim. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.070).]

12.10.070

Inclusion of streets which have reverted to city.

The city of Kenmore street system shall include all streets which reverted to King County prior to incorporation have reverted to the city of Kenmore by virtue of prescriptive rights as set forth in RCW 36.75.070 and 36.75.080. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.080).]

12.10.080

Inaccuracies corrected.

If any inaccuracies appear on the exhibits in conflict with records on file, the inaccuracies shall be corrected on the exhibits and in no case shall affect the provisions of this chapter or the status of the exhibits as official designators of the official city of Kenmore street system. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.100).]

Chapter 12.15

LOAD RESTRICTIONS ON STREETS

Sections:

12.15.010 Street closure policy.

12.15.020 Winter and emergency load restrictions.

12.15.010

Street closure policy.

The following policy is approved and adopted, and henceforth all street closure and load limit restrictions will be disseminated in accordance with this policy insofar as it is possible to do so:

A. A list of streets which will remain open and available for school bus use during thawing conditions will be supplied to each and every school district operating on city streets within the city of Kenmore. ~~This will be accomplished during the month of September of each school year.~~

B. In the event street closures are required, the school district will be notified prior to 1:00 p.m. of the day preceding the street closures on school bus routes, to be effective the following day. If the morning pickup of children is accomplished, the school district will be permitted to use these routes for the returning of the children to their normal bus stops.

C. School buses will be permitted to turn around at the intersection of a school bus route which is closed, and the open route with the minimum maneuvering possible on the closed street in the intersection area.

D. The city will establish the necessary communications with the school districts to provide the proper notification. ~~The city engineer-manager will initiate street closures and unless specified otherwise, closures shall be city-wide.~~ [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.12.010).]

12.15.020

Winter and emergency load restrictions.

The following emergency restrictions shall be in effect on city streets during such periods of freezing and thawing conditions as determined by the ~~street engineer~~ city manager:

REGULAR WINTER LOAD RESTRICTIONS

Conventional		Tubeless or Special with 0.5 Marking	
Tire Size	Gross Load Each Tire	Tire Size	Gross Load Each Tire
7.00	1,800 lbs.	8- 22.5	2,250 lbs.
7.50	2,250 lbs.	9- 22.5	2,800 lbs.
8.25	2,800 lbs.	10- 22.5	3,400 lbs.
9.00	3,400 lbs.	11- 22.5	4,000 lbs.
10.0 0	4,000 lbs.	11- 24.5	4,000 lbs.
11.0 0	4,500 lbs.	12- 22.5	4,500 lbs.
12.0 or over 0	4,500 lbs.	12- or over 24.5	4,500 lbs.

EMERGENCY LOAD RESTRICTIONS

Conventional Tires		Tubeless or Special with 0.5 Marking	
Tire Size	Gross Load Each Tire	Tire Size	Gross Load Each Tire
7.00	1,800 lbs.	8- 22.5	1,800 lbs.
7.50	1,800 lbs.	9- 22.5	1,900 lbs.
8.25	1,900 lbs.	10- 22.5	2,250 lbs.
9.00	2,250 lbs.	11- 22.5	2,750 lbs.
10.0 0	2,750 lbs.	11- 24.5	2,750 lbs.
11.0 or over 0	3,000 lbs.	12- or over 22.5	3,000 lbs.

A further load restriction of five tons gross on any vehicle may be placed on streets under severe conditions. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.12.020).]

Chapter 12.20

LOAD LIMITS ON BRIDGES

Sections:

12.20.010 Gross weight allowed and notification.

12.20.020 Limited special permits.

12.20.030 Maximum gross vehicle weight.

12.20.040 Enforcement and penalty.

12.20.050 Severability.

12.20.010

Gross weight allowed and notification.

A. It is unlawful for any person to operate a vehicle over any city of Kenmore bridge when such vehicle has a gross weight that is greater than the posted maximum weight for that bridge, unless the driver is in possession of a limited special permit issued by the city manager
~~city street engineer or designee for the safe use of such bridge.~~

B. Notice of closing of individual bridges to certain classes or weights of vehicles shall be:

1. Published in a local newspaper of general circulation; and

2. Posted on signs at each end of subject bridge, on or prior to the date of publication. All signs shall be erected and maintained in accordance with RCW ~~36.86.040~~, 46.61.450 and 47.36.030.

C. Maximum gross weights for vehicles operating over city of Kenmore bridges shall be established by ordinance in accordance with RCW ~~36.75.270~~ and 46.44.080.

D. The city ~~manager street engineer~~ shall have the authority by administrative determination to immediately impose temporary gross weight limits on bridges based on the results of an engineering and traffic investigation. The city manager ~~traffic engineer~~ shall have the authority to immediately erect and maintain official traffic control devices for temporary gross weight limits on bridges as

directed by the city street engineer and in accordance with Chapter 46.90 RCW, WAC 308-330-265 and Chapter 10.05 KMC. The temporary gross weight limits on bridges shall be in effect for not longer than one year from the date of posting or until the weight limits are established by ordinance. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.010).]

12.20.020

Limited special permits.

The city ~~manager~~ street engineer or designee is authorized to issue limited special permits for the safe use of load limited bridges by emergency vehicles and other vehicles exceeding the posted maximum weight. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.015).]

12.20.030

Maximum gross vehicle weight.

Those city bridges that are posted ~~one legal load~~ are done so pursuant to definitions and standards for maximum gross vehicle weight contained in Chapter 46.44 RCW, particularly the vehicle weight table of RCW 46.44.041. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.020).]

12.20.040

Enforcement and penalty.

~~A. The director of the department of public works and the chief of the police department are authorized to enforce the provisions of this chapter and any rules and regulations promulgated thereunder.~~

AB. Any violation of this chapter is a traffic infraction and subject to a penalty of \$250.00. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.170).]

12.20.050

Severability.

Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.180).]

Chapter 12.25

STANDARD SPECIFICATIONS FOR STREET AND BRIDGE CONSTRUCTION

(Repealed by Ord. 05-0231)

Chapter 12.30

STREET CONSTRUCTION RULES ADOPTED

(Repealed by Ord. 05-0231)

Chapter 12.35

RIGHTS-OF-WAY

Sections:

~~12.35.010 Definitions.~~

~~12.35.015 Fee exemptions — Beautification permit.~~

12.35.020 Permit required for improvement or use — Application processing.

~~12.35.025 Time limitation of application.~~

12.35.030 Permit — Additional requirements.

~~12.35.035 Permit — Application Fees.~~

~~12.35.037 Permit — Fees.~~

12.35.040 Permit — Limited.

12.35.050 Permit — Extended Access.

~~12.35.055 — Permit — Encroachment.~~

12.35.060 Permit — Interpretation.

~~12.35.070 Compliance requirement of driveway connections or other access to city street rights of way.~~

~~12.35.065 — Application.~~

~~12.35.070 — Obligation.~~

~~12.35.075 — Conformance.~~

~~12.35.076 — Covenant.~~

12.35.080 Enforcement.

12.35.090 Retroactivity.

~~12.35.100 Effective date.~~

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12.35.010

Definitions:

A. "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.

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B. "Department" means the Department of Land Development and Permitting department of community development.

C. "Development" means any activity that requires a permit or approval, including, but not limited to, a building permit, grading permit, shoreline substantial development permit, conditional use permit, special use permit, zoning variance or reclassification, subdivision, short subdivision, urban planned development, binding site plan, site development permit or right of way use permit.

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C. "Development approval" means the granting of a building permit, mobile home on site permit, short subdivision or other city land use approval or approvals.

D. "City manager" means the Kenmore city manager or his or her designee, other directors, or any duly authorized representatives of such directors. "Development engineer" means the city of Kenmore employee authorized to oversee the review, conditioning, inspection and acceptance of right of way use permits, street and drainage projects constructed pursuant to permits administered by the city. The development engineer or designee shall be a professional civil engineer registered and licensed under the laws of the state of Washington.

E. "Right of Way Use Permit"

"Right of way use permit" means a right of way user permit limited, extended or encroachment.

~~1.F. "Right of way use permit, limited" means a permit authorizing the use of the city right of way for a designated purpose and for a period of time limited to one year or less.~~

~~2.G. "Right of way use permit, extended" means a permit authorizing the use of the city right of way for a designated purpose a subdivision or property access and for a period of time exceeding one year in duration. (Ord. 02-0180 §§ 1-2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.010).)~~

~~H. "Right of way use permit, encroachment" means a permit authorizing the use of the city right of way for a designated purpose and for a period of time exceeding one year in duration.~~

~~1. "Encroachment" means any structures permanent in nature, including but not limited to, building extension, marquee, fence, stairway, railing, retaining wall, artwork, or any other building or structure constructed, created or maintained in, over or under any public place, right of way, easement, roadway, parking strip and/or sidewalk, including the airspace above them. (Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.010).)~~

12.35.015

Fee exemptions—Beautification permit.

The purpose of this section is to foster the public benefit by encouraging citizens to beautify publicly owned rights of way, without compromising the public's safety. For purposes of maintaining a record of all beautification projects, a beautification permit shall be required prior to commencement of a beautification activity. A beautification permit shall be issued without charge for projects that satisfy the following criteria:

A. The project involves the planting of flowers or other vegetation that do not hinder the safe use of the right of way by drivers or others within 10 feet of the fog line or the edge of the pavement, if there is no fog line;

B. The project involves planting adjacent to the applicant's residence; and

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~~C. No shrubs or trees or other structures may be installed planted within 10 feet of the fog line or edge of pavement.~~

~~The city manager/engineer may administratively modify these provisions in writing based on his review of a beautification permit application, if the proposal satisfies (1) any applicable legal requirements, and (2) public safety standards, based on the exercise of reasonable engineering judgment. [Ord. 94-026 § 1.]~~

12.35.020

Permit required for improvement or use – Application processing.

A. Permits Required. City street right-of-way shall not be privately improved or used for access or other purposes and no development approval shall be issued which requires use of privately maintained city right-of-way unless a permit therefor has been issued pursuant to this chapter, except for utility construction work authorized pursuant to Chapter 12.55 KMC. ~~This section shall not apply to driveway connections from private property to city street right of way.~~

B. General Procedures.

1. Upon receipt of an application for right-of-way use permit, limited, ~~or extended~~ access, or encroachment the city manager shall forward copies of the application to the division of real property, which shall determine whether the proposed activity is within city-owned right-of-way.

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2. The city shall be the lead agency for the compliance with the State Environmental Policy Act. In addition, the city manager/development engineer shall review applications for compliance with applicable city plans, policies, regulations and standards. Prior to issuing a right-of-way use permit, the city manager may shall determine and secure an appropriate financial guarantee consistent with the provisions of KMC Title 21.

3. The city manager shall, when feasible, consolidate right-of-way use permits with other development approvals to prevent duplication and increase efficiency. The fee for a consolidated

approval shall be reduced to the extent separate fees would be duplicative. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.020).]

12.35.025

Time limitation of application.

A. Applications for which no permit is issued within 18 months following the date of application shall expire by limitation and plans and other data submitted for review may thereafter be returned to the applicant or destroyed in accordance with state law.

B. Applications may be canceled for inactivity, if an applicant fails to respond to the department's written request for revisions, corrections, actions or additional information within 90 days of the date of request. The city manager may extend the response period beyond 90 days if within the original 90 day time period the applicant provides and subsequently adheres to an approved schedule with specific target dates for submitting the full revisions, corrections or other information needed by the department.

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12.35.030

Permit – Additional requirements.

A. Plans. Detailed engineering and restoration plans and/or drainage plan pursuant to Chapter 13.35 KMC may be required when considered necessary by the city manager development engineer. Costs for the development of such plan and conduct of required studies shall be borne by the permit applicant and, if the plan is returned, it shall be returned to the applicant.

B. Survey. When considered necessary by the city manager development engineer to adequately define the limits of right-of-way, the permit applicant shall

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cause the right-of-way to be surveyed by a licensed land surveyor. Such survey shall be recorded in accordance with the Survey Recording Act.

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C. Dedication. An ~~permit~~ applicant may be required to deed additional right-of-way across property under his ~~ownership~~ authority when necessary to fulfill the minimum street right-of-way width prescribed in RCW 36.86.010.

D. Illegal Subdivision. A permit shall not be issued to provide access to a lot or parcel created in violation of state and city subdivision regulations. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.030).]

12.35.035

Application – Fees.

Each application requires a fee, imposed by City Council by resolution, payable to the City of Kenmore for the administrative costs and expenses of processing the application.

To foster the public benefit by encouraging citizens to beautify publicly owned rights of way, without compromising the public's safety. For purposes of maintaining a record of all beautification projects, a beautification permit shall be required prior to commencement of a beautification activity. A beautification permit shall be issued without charge for projects that satisfy the following criteria:

A. The project involves the planting of flowers or other vegetation that does not hinder the safe use of the right-of-way by drivers or others within 10 feet of the fog line or the edge of the pavement, if there is no fog line;

B. The project involves planting adjacent to the applicant's residence; and

C. No shrubs or trees are installed within 3 feet of a curb line or where no curb exists, within 10 feet of the fog line or edge of pavement.

12.35.037

Permit – Fees.

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A. The permittee shall pay a fee at a rate imposed by the City Council by Resolution per hour for inspection.

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B. The permittee shall also pay a fee for use of the right of way based on a policy approved by the City Council by Resolution.

C. The fees shall be collected in accordance with administrative procedures developed by the department. [Ord. 02-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 02-0139 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.045).]

12.35.040

Permit – Limited.

A. Upon filing of a complete application, payment of the fee, and posting of the required financial guarantee for construction, maintenance, and restoration of the right-of-way consistent with the provisions of KMC Title 21, the city manager may issue a permit authorizing the limited use of city street right-of-way, for use by designated private parties for a specific use which is less than one year in duration.

B. The permit may require construction and restoration of the right-of-way to adopted standards based on the nature and duration of the specific use, and subject to division inspection. In addition, conditions may be set to assure the compliance with city plans, policies, standards and regulations. Such conditions may require performance in excess of adopted street standards.

C. The permit applicant shall assume sole responsibility for the safe and adequate operation and maintenance of any improvements to the city right-of-way during the period of time the permit is in effect.

D. The permit applicant may apply for an extension to the right-of-way use permit, limited, upon written application for an extension, payment of the fees, and being found to be in compliance with the conditions and requirements of the original permit. The application for extension may only be made after the first six months of the original permit life.

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E. Types of Right-of-Way Permits, Limited

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1. Type A. Activity which will alter the surface or subsurface of the right-of-way. Examples are:

- a. ~~Paving operations;~~ Culvert installation;
- b. ~~Driveway installations;~~
- c. ~~Sidewalk installations;~~ Paving operations in right-of-way.
- d. ~~Open-cut trenching;~~
- e. ~~Above ground pedestal or utility box installations;~~
- f. ~~Culvert installation;~~
- g. ~~Shoulder improvements;~~
- h. ~~Beautification.~~

2. Type B. Temporary use of the right-of-way (24 hours or less) which does not change the right-of-way surface or subsurface. Examples are:

- a. Temporary storage of a dumpster/storage container;
- b. Block party;
- c. Temporary parking.

3. Type C. Temporary use of the right-of-way (more than 24 hours) which does not change the surface or subsurface. Also activities that will require traffic plan and traffic plan review. Examples are:

- a. Street closures (fair or carnival);
- b. Commercial activities in the right-of-way;
- c. Extended storage in right-of-way. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 00-0088 (Exh.

B); Ord. 98-0024 §§ 1, 2 (KCC 14.28.050).]

12.35.050

Permit – ~~Access~~ Extended.

A. Upon filing of a complete application and payment of fee, the city manager may issue a permit authorizing the use of the ~~unopened~~ city right-of-way ~~for a subdivision as a private street or property access for a designated use and~~ for a period exceeding one year in duration.

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B. The applicant may be required to construct ~~street improvements a street to the specific standards which may include full compliance with~~ adopted city of Kenmore street standards, and may be required to post financial guarantees consistent with the provisions of KMC Title 21 for construction, restoration and maintenance. Construction work and all restoration work required by the permit shall be completed within one year of the permit's issuance. In addition, the city manager may set conditions to assure compliance of the permit with other adopted plans, city policies, and regulations.

C. The ~~city manager department of public works~~ shall place and maintain permanent sign(s) denoting the end of the city-maintained street.

D. The applicant shall have sole responsibility for the safe construction, operation and maintenance of any improvements to the city right-of-way pursuant to the permit, until such time as the improvements are officially accepted for maintenance by the city of Kenmore.

~~E. Unless earlier revoked by the city manager, any such access extended-right of way use permit issued shall be valid for a term of one year and shall be automatically renewable for successive one-year terms.~~

~~E. The permit applicant may be required to record a covenant running with the land and for the benefit of the city of Kenmore, which contains:~~

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~~1. A legal description of the lot or parcel to be served by the right of way use permit, limited or extended;~~

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2. A statement indicating that access to such parcel is across an unmaintained city right-of-way, that the city is not responsible for maintenance of the right-of-way and that responsibility for maintenance of the street rests jointly and equitably upon all permit holders;
3. A statement that the owner(s) of the parcel will not oppose participation in a city street improvement district, if formation of such a district is deemed necessary by the city of Kenmore;
4. A prohibition against subdividing such parcel without obtaining either plat or short plat approval therefor, or if exempt from platting, a right-of-way use permit for the additional lots being created;
5. A statement that the right-of-way use permit covenant is binding on the successors and assigns of the owner(s); and
6. The acknowledged signature(s) of the owner(s) of such parcel.

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12.35.055**Permit – Encroachment**

~~F.A. Authorized.~~ Upon filing of a complete application and payment of fee, the city manager may issue a permit authorizing the use of the city right-of-way for ~~a designated purpose~~ an encroachment for a period exceeding one year in duration.

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- B. An encroachment right-of-way use permit may be issued to authorize private construction in public rights-of-way that are characterized by steep slopes, significant wetlands, other critical areas, or any other topographical characteristic which makes when it is unlikely in the judgment of the city manager that such public right-of-way will be substantially improved by the city or other public agency within the foreseeable future.

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In exercising such judgment, the city manager may consider existing traffic data in and around the site of the permit application, the city's adopted transportation improvement plan, and any other studies, data, or other information that he deems relevant to his determination.

- C. The applicant shall have sole responsibility for the safe construction, operation and maintenance of any improvements within the city right-of-way pursuant to the permit.

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D. Unless earlier revoked by the city manager, any such encroachment permit issued shall be valid for a term of one year and shall be automatically renewable for successive one-year terms.

12.35.060

Permit – Interpretation.

Permits issued pursuant to Section 12.35 shall not be construed to convey any vested right or ownership interest in any city right-of-way. Every right-of-way use permit shall state on its face that any city right-of-way opened pursuant to this chapter shall be open to use by the general public except in those cases where specific conditions in a right-of-way use permit, limited, restrict the use of the right-of-way for safety reasons. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.070).]

12.35.06535.025

Permit Application.

An applicant for a right of way use ~~n encroachment~~ right-of-way use permit issued pursuant to Section 12.35 this chapter shall complete an application in a form prescribed by the city manager. The city manager may reject incomplete application forms. Such application form shall require an applicant to identify the right-of-way to be used, the nature of the related development on the adjacent private property, and such other information as the city manager reasonably determines to be necessary, in relation to the specific project proposed. Such other information may include geotechnical studies, proof of liability insurance, performance bonding, and other measures designed to protect the public health, safety, and welfare.

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Unless earlier revoked by the city manager, any such encroachment right-of-way permit issued shall be valid for a term of one year and shall be automatically renewable for successive one-year terms upon the payment of an annual fee.

12.35.070

Obligation.

~~Chapter Section 12.35~~ This chapter authorizes the city manager to engage in discretionary acts and does not create any obligation on the part of the city to issue any such right of way use encroachment right-of-way permits nor does it create any right on the part of an applicant to initially obtain or subsequently retain any such right of way encroachment right-of-way permit. Any such permit actually issued shall be revocable at any time after 90 days' written notice from the city manager to the permit holder. The city manager's revocation notice shall include a date by which the private use of the right-of-way must be discontinued and removed, all at the sole expense of the permit holder. Any private use of the right-of-way remaining after such date shall constitute a public nuisance and shall be abated as such. The cost of abatement, including the city's attorney fees, shall be borne by the permit holder. There shall be no administrative nor judicial appeal from any such decision by the city manager to revoke any such permit.

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12.35.075B.

Conformance.

Any requirement imposed by ~~Chapter Section 12.35~~ this chapter shall be in addition to any other requirement imposed by any other ordinance or other law regulating or controlling the use and development of private or public property. Such additional requirements include but are not limited to any necessary setback variances. A permit issued pursuant to ~~this Chapter Section 12.35~~ chapter may not authorize any use or development otherwise not allowed or permitted under any other ordinance. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 00-0085 §§ 1, 3; Ord. 98-0024 §§ 1, 2 (KCC 14.28.060).]

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12.35.076**Covenant.**

The applicant for a right of way use permit limited, access ~~extended~~ or encroachment may be required to record a covenant running with the land and for the benefit of the city of Kenmore, which contains:

1. A legal description of the lot or parcel to benefit from the right-of-way use permit;
2. If the permit is for access, a statement indicating the following: ~~A statement indicating if the permit is for access that access to such~~
 - a. Access to such parcel is across an unmaintained city right-of-way, that the city is not responsible for maintenance of the right-of-way and that responsibility for maintenance of the street rests jointly and equitably upon all permit holders;
 - b. ~~A statement that the owner(s) of the parcel will not oppose participation in a city street improvement district, if formation of such a district is deemed necessary by the city of Kenmore;~~
 - c. ~~A prohibition against subdividing such parcel without obtaining either plat or short plat approval, or if exempt from platting, a right of way use permit for the additional lots being created;~~
3. If the permit is for an encroachment, a statement indicating the following:
 - a. Maintenance of the encroachment is the responsibility of the property owner; and
 - b. Acknowledgement that the encroachment must be removed by the property owner within 90 days at the request of the city manager.
4. ~~A statement that any the right-of-way use permit covenant is binding on the successors and assigns of the owner(s); and~~
5. ~~The acknowledged signature(s) of the owner(s) of such parcel.~~
6. ~~The right of way use permit may be revocable with 90 days written notice.~~

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~~12.35.070~~

~~Compliance required of driveway connections or other access to city street rights
of way.~~

~~No driveway connection or other access from private property to a city street right-of-way shall
be built or maintained which does not comply with the city of Kenmore street standards. [Ord. 03-
0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.080).]~~

12.35.080

Enforcement.

~~The city manager director of the department of public works and the director of the department of
planning and community development are authorized to enforce the provisions of this chapter, and
any rules and regulations promulgated thereunder pursuant to the enforcement and penalty
provisions of Chapter 1.20 KMC. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2
(KCC 14.28.090).]~~

12.35.090

Retroactivity.

~~All access approvals, trail permits and right-of-way use permits issued by the city of Kenmore
prior to the effective date of this chapter shall not be affected by the provisions of this chapter. [Ord.
03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.100).]~~

~~12.35.100~~

Effective date.

~~The ordinance codified in this chapter shall become effective 30 days after signing by the city
manager or his or her designee. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2
(KCC 14.28.110).]~~

Chapter 12.40

PERMIT SYSTEM FOR CITY PROPERTY

Sections:

12.40.010 Definitions.

12.40.020 Permit requirement.

12.40.040 Permit issuance.

12.40.050 Liability.

12.40.060 Additional requirements.

12.40.080 Interpretation.

12.40.090 Enforcement.

12.40.100 Severability.

12.40.010

Definitions.

A. "City property" means all city real property, including but not limited to recreational trails, city street rights-of-way and dedicated open space.

B. "Special use permits" means a permit for the use of city property issued pursuant to this chapter.

C. "Custodial departments" means those city departments whose function it is to manage and control city use of said rights-of-way or other city property. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.20.010).]

12.40.020

Permit requirement.

A. Special use permits shall be required for any use of city property except uses regulated pursuant to Chapter 12.55 KMC relating to utility permits and Chapter 12.35 KMC relating to city street system rights-of-way use permits.

B. Upon receipt of an application for a "special use" permit upon city property, the city ~~manager of Kenmore~~ shall determine whether the proposed use is upon city-owned property.

C. The ~~city manager of Kenmore~~ shall forward the application to ~~all city custodial department(s)~~ for review.

D. The ~~custodial department(s)~~ shall review the application and forward its recommendation whether the permit shall be issued ~~to the city manager~~.

~~by the city of Kenmore. If a custodial department recommends denial, the city of Kenmore shall deny the permit.~~

E. ~~The~~ ~~if there is no custodial department with jurisdiction over the city property, the city of Kenmore~~ shall evaluate the feasibility of the proposed use, its impact on other uses of the city property and its impact on public health and safety. Based on this evaluation, the ~~department city of Kenmore~~ shall ~~recommend~~ ~~determine~~ whether the permit should be issued.

F. In all cases, the city of Kenmore shall forward the application to the department(s) of community development for recommendations on critical area issues and the city of Kenmore shall be responsible for assuring that any application meets the requirements of the critical areas code set out in Chapter 18.55 KMC and the administrative rules promulgated thereunder before the permit is issued. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.020).]

12.40.040

Permit issuance.

A. Upon filing of a complete application, necessary approval of said application and the payment of the administrative fee and posting of any required bond, the city ~~manager of Kenmore~~ may issue a permit authorizing the designated use of city property by the permittee.

B. The permit may require restoration of the city property to standards ~~prescribed by the custodial department and the city of Kenmore~~ in view of the nature and duration of the special use. In addition, conditions may be set ~~by the city of Kenmore~~ to assure compliance of the permit with city policies, ordinances and other applicable laws and regulations.

C. The permit applicant may be required to post a performance bond in an amount which will:

1. Guarantee the use will be in compliance with standards and conditions prescribed by the city of Kenmore;
2. Guarantee restoration of the city property to a condition consistent with the special use permit and the city's own use of its property. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.030).]

12.40.050

Liability.

The permit applicant shall be solely responsible for the adequate operation and maintenance of any improvements constructed by the permittee to the city property and shall assume liability for all injuries to persons or property as the result of activities pursuant to a special use permit. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.040).]

12.40.060

Additional requirements.

A. Survey. When considered necessary by the city of Kenmore to adequately determine the limits of the city property, the permit applicant shall cause the city property to be surveyed by a licensed land surveyor. Such survey shall be recorded in accordance with the Survey Recording Act. The cost of such survey shall be paid by the permit applicant.

~~B. Dedication. A permit applicant may be required to deed additional right of way across property under his authority when necessary to fulfill any city policy, ordinance or laws. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.050).]~~

12.40.080

Interpretation.

Permits issued pursuant to this chapter shall not be construed to convey any vested right of ownership interest in any city property. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.070).]

12.40.090

Enforcement.

The city manager is authorized to enforce the provisions of this chapter, pursuant to Chapter 1.20 KMC. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.080).]

12.40.100

Severability.

Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.090).]

Chapter 12.45

(Reserved)

Chapter 12.50

STREET STANDARDS

Sections:

- 12.50.010 Adoption.
- 12.50.020 Terms.
- 12.50.030 Applicability.
- 12.50.040 Developments.
- 12.50.050 References.
- 12.50.060 Variances.
- 12.50.070 Appeals from decisions on variances.
- 12.50.080 Street and driveway setbacks.
- 12.50.090 Access to short plats.
- 12.50.100 Turn-around and/or cul-de-sac requirements.
- 12.50.110 Second access threshold.
- 12.50.120 Street overlays.
- 12.50.130 Building setbacks.
- 12.50.140 Interim access management plan authorized.
- 12.50.150 Interpretation.
- 12.50.160 Penalties.
- 12.50.170 Severability.
- 12.50.180 Effective date.

12.50.010

Adoption.

A. "King County Road Standards," 1993 update, as amended by the council December 20, 1993, incorporated herein as Attachment A* with amended Sections 2.03, 2.20, 2.21, 3.02, 5.03 and 5.10 as Attachment B* are hereby approved and adopted as the city of Kenmore standards for street design and construction.

B. Consistent with the council's direction and intent in adopting these standards the department of public works is hereby authorized to develop public rules and make minor changes to the drawings in order to better implement the standards and as needed to stay current with changing design and construction technology and methods.

C. Consistent with the council's direction and intent in adopting these standards the department of public works will establish a committee consisting of city staff and representatives of the fire and emergency medical service and development communities. The committee will investigate alternative streetway widths and other street standard related issues that impact the ability to provide emergency fire and medical service to the public and report findings back to council by September 1994. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.010).]

*Code reviser's note: Attachments A and B are on file in the office of the city clerk.

12.50.020

Terms.

A. "Standards" means the city of Kenmore street standards.

B. "Engineer" means the city of Kenmore street engineer, having authorities specified in RCW 36.75.050 and Chapter 36.80 RCW, or his authorized representatives. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.020).]

12.50.030**Applicability.**

A. The standards may apply to all newly constructed modifications of streetway features or existing facilities which are within the scope of reconstructions or capital improvement projects when so required by the city of Kenmore or to the extent they are expressly referred to in project plans and specifications. These standards are not intended to apply to "resurfacing, restoration, and rehabilitation" projects as those terms are defined in the Local Agency Guidelines, Washington State Department of Transportation, as amended; however, the engineer may in his discretion consider the standards as optional goals.

B. The standards shall apply to every new placement and every planned, nonemergency replacement of existing utility poles and other utility structures within the city of Kenmore right-of-way. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.030).]

12.50.040**Developments.**

Any land development which is required by operation of any city ordinance or adopted standard to improve streets within, abutting, or serving the development shall do so in accordance with these standards. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.040).]

12.50.050**References.**

The standards implement and are intended to be consistent with the references listed in Section 1.04 of Attachment A, "King County Road Standards, 1993."* [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.050).]

*Code reviser's note: Attachment A is on file in the office of the city clerk.

12.50.060

Variances.

Variances from these standards may be granted by the engineer upon evidence that such variances are in the public interest, and that requirements for safety, function, fire protection, appearance, and maintainability based upon sound engineering judgment are fully met. Detailed procedures for requesting variances are contained in administrative rules available from the city street engineer. Variances must be approved prior to construction. Any variances from these standards which do not meet the Uniform Fire Code will require concurrence by the city of Kenmore fire marshal. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.060).]

12.50.070

Appeals from decisions on variances.

The department of public works by public rule shall establish procedures governing the administrative appeal of the city engineer's decision on a request for variance made in accordance with KMC 12.50.060. The department's decision on such appeals shall be final. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.062).]

12.50.080

Street and driveway setbacks.

The city of Kenmore street standards are hereby revised to require that the portion of all driveways, joint use driveways, access tracts, streetways, or other means of access to private residential property must be located at least five feet from the property line of adjoining properties; provided, that:

A. The minimum spacing between the paved portion of all driveways, joint use driveways, access tracts, streetways, or other means of access to private property shall be at least 18 feet at the property line.

B. An access tract adjacent to a property line must be at least 29 feet in width.

C. Joint use driveway tracts and easements adjacent to a property line must be at least 25 feet in width.

D. Nothing in this section shall preclude adjoining property owners from entering into voluntary agreements to locate streets, joint use driveways, or access tracts, on their shared property line to provide common access. [Ord. 00-0096 § 1.]

12.50.090

Access to short plats.

Access tracts and/or streetways required to provide access to two or more lots shall be developed to the width and standard required for its entire length. The practice commonly known as, or that yields the effect of, "telescoping" improvements (i.e., a street required to serve a short plat being reduced in width to a joint use driveway or access tract) is expressly prohibited. [Ord. 00-0096 § 2.]

12.50.100

Turn-around and/or cul-de-sac requirements.

Streets and access tracts serving more than six lots or greater than 150 feet in length as measured from the centerline of the connecting streetway shall provide a cul-de-sac or turn-around, in accordance with standards to be developed by the city manager or his or her designee, in consultation with the fire marshal, emergency service providers, utility companies, and delivery services. [Ord. 00-0096 § 3.]

12.50.110

Second access threshold.

Subdivisions consisting of 30 or more lots shall provide a secondary means of access acceptable to the city manager or his or her designee; provided, that:

A. The city manager or his or her designee may require any short plat or subdivision to connect to, or provide the potential to connect to, existing streetways or dedicated rights-of-way to provide an appropriate network for local access. [Ord. 00-0096 § 4.]

12.50.120

Street overlays.

The minimum standard for street overlays shall be two inches of compacted asphalt pavement, Class B, unless otherwise specified by the city manager or his or her designee. [Ord. 00-0096 § 5.]

12.50.130

Building setbacks.

Buildings shall be set back 10 feet from an access tract, however, at least 20 linear feet of driveway shall be provided between any garage, carport, or other fenced parking area and the property line of the access tract. The linear distance shall be measured along the centerline of the driveway from the access point of such area to the access tract property line. [Ord. 00-0096 § 6.]

12.50.140

Interim access management plan authorized.

The city manager or his or her designee is hereby authorized to prepare and implement an interim access management plan. This interim plan shall apply to all principal arterials in Kenmore, as well as to 61st Avenue N.E., 68th Avenue N.E., 73rd Avenue N.E., and 80th Avenue N.E., between N.E. 181st, Street extended and N.E. 175th Street extended. The interim plan shall emphasize the consolidation of existing driveways and access points, the reduction of left-turn movements onto or from principal arterials, and the use of intersections as opposed to driveways for turning movements. [Ord. 00-0096 § 7.]

12.50.150

Interpretation.

The city manager, or his or her designee, is authorized to interpret the city of Kenmore street standards as amended, provide guidelines for their implementation, promulgate rules, and to resolve conflicts or inconsistencies that may arise in their interpretation or application. [Ord. 00-0096 § 8.]

12.50.160

Penalties.

Failure to comply with these standards may result in denial of plan or development permit approval, revocation of prior approvals, legal action for forfeiture of financial guarantee, code enforcement, and/or other penalties as provided by law. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.070).]

12.50.170

Severability.

If any part of these standards as established by ordinance shall be found invalid, all other parts shall remain in effect. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.080).]

12.50.180

Effective date.

The ordinance codified in this chapter shall take effect 30 days from its enactment. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.090).]

Chapter 12.55

UTILITIES ON CITY RIGHTS-OF-WAY

Sections:

- 12.55.010 Purpose.
- 12.55.020 Construction permit – Required.
- 12.55.030 Construction permit – Application – Generally.
- 12.55.040 Construction permit – Application – Fees.
- 12.55.050 Inspection fee.
- 12.55.060 Construction permit – Application – Review.
- 12.55.070 Emergency construction permits – Unfranchised utilities.
- 12.55.080 Policy on accommodation of utilities.
- 12.55.090 Coordination of right-of-way construction.
- 12.55.100 Performance guarantee required.
- 12.55.110 Construction permit – Form.
- 12.55.120 Notification by permittee of construction commenced.
- 12.55.130 Enforcement.
- ~~12.55.135 Productivity and customer service report.~~
- 12.55.140 Severability.

12.55.010

Purpose.

The purpose of this chapter is to regulate the granting of right-of-way construction permits and to ensure that utility construction work undertaken pursuant to such permits is consistent with the applicant's right-of-way franchise from the city, the applicable district comprehensive plan, the critical areas code, the city comprehensive plan, sound engineering and design standards, health and

sanitation regulations, and city standards for water mains and fire hydrants. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.010).]

12.55.020

Construction permit – Required.

A. All construction work performed by franchised utilities, telephone and telegraph companies and within city of Kenmore right-of-way shall require a right-of-way construction permit to be issued by the city of Kenmore; provided, that construction work undertaken by the city of Kenmore or under contract to the city of Kenmore or requested by the city of Kenmore due to new construction shall be exempted from this requirement. Construction work shall include but not be limited to the construction and maintenance of waterlines, gas pipes, sewer lines, petroleum pipelines, telephone, telegraph and electric lines, cable TV and petroleum products and any other such public and private utilities.

B. ~~The Department of Transportation and~~ The city of Kenmore, during the construction of capital improvement projects, shall install vacant conduit reserved for the future installation of fiber optic cable in accordance with the city of Kenmore's I-net and wide area network plans; all capital improvement projects not requiring trenching or modification to the subgrade, such as overlays and shoulder widening, shall be exempted from this requirement. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.020).]

12.55.030

Construction permit – Application – Generally.

Applications for all right-of-way construction permits shall be submitted, in writing, to the city of Kenmore. The application shall contain whatever information, including plans and specifications, which the city of Kenmore shall require. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.030).]

12.55.040

Construction permit – Application – Fees.

Effective January 1, 2002, ~~Each application requires a fee, imposed by the city council by resolution, payable to the city of Kenmore for the administrative costs and expenses of processing the application. These fees shall be equal to the administrative costs of approving the permit, including but not limited to preparing the permit, review, processing, coordinating review with other departments, preparing environmental documents, etc.~~

A. ~~Pole lines—Power, telephone, etc. (every six poles or portion thereof).~~

B. ~~Water:~~

- ~~1. Installing mains (1,000 linear feet or less).~~
- ~~2. Additional 1,000 linear feet or fraction thereof.~~
- ~~3. Excavation for connection.~~

C. ~~Sewer:~~

- ~~1. Installation of mains (1,000 feet or fraction thereof).~~
- ~~2. Additional 1,000 linear feet or fraction thereof.~~
- ~~3. Excavation for connection.~~

D. ~~Cable or Conduit.~~

- ~~1. Installing cable or conduit (1,000 feet or less).~~
- ~~2. Additional 1,000 linear feet or fraction thereof.~~
- ~~3. Excavation in street for connection.~~

E. ~~Gas or Oil:~~

- ~~1. Installing mains (1,000 linear feet or less).~~
- ~~2. Additional 1,000 feet or fraction thereof.~~
- ~~3. Excavation for connection.~~

F. ~~Attachment to existing poles for every three attachments.~~

G. Immediate Response Permit Request. In addition to the required permit fees an additional fee shall be charged. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 02-0139 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.040).]

12.55.050

Inspection fee.

A. The permittee shall pay an inspection fee at the rate imposed by the city council by resolution per hour of utility inspection to the ~~dDepartment of Public Works~~. The fees are in addition to any other city fees and are nonrefundable.

B. The fees shall be collected in accordance with administrative procedures developed by the ~~dDepartment of Public Works~~. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 02-0139 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.045).]

12.55.060

Construction permit – Application – Review.

A. ~~The Public Works Department~~ city of Kenmore shall coordinate the review by all departments of right-of-way construction permit applications and shall determine whether the proposed construction is consistent with the applicant's right-of-way franchise from the city.

B. The ~~dDepartment of Public Works~~ shall review and evaluate applications in respect to the hazard and risk of the proposed construction, location of the proposed construction in relation to other utilities in the right-of-way and the adequacy of the engineering and design of the proposed construction.

C. The ~~department dDepartment of public Public Works~~ shall review and evaluate all applications for right-of-way construction permits for sewer and water main extensions to determine whether the proposed construction is consistent with the sewer or water comprehensive plan approved by the city council. If the facility is not consistent with an approved comprehensive plan,

then the construction permit shall not be issued. Applications for those water utilities with Group A non-expanding public water systems that are not required to prepare comprehensive plans for approval by the city council shall be approved if all other conditions of this chapter are met. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.050).]

12.55.070

Emergency construction permits – Unfranchised utilities.

A. The city of Kenmore may issue right-of-way construction permits to unfranchised utilities under the following circumstances:

1. When the Seattle-King County department of public health has determined that the proposed work is necessary to address a public health hazard; or
2. When the ~~streets division, department of public works,~~city manager has determined that the proposed work is necessary to address actual or imminent damage to city right-of-way or to address hazards to users of city right-of-way.

~~B. No right of way construction permit for sewer or water facility construction, shall be issued unless the city of Kenmore receives a determination from the chair of the utilities technical review committee that the proposed work is consistent with the city of Kenmore comprehensive plan.~~

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~~C. The permit applicant shall be required to meet all conditions of this chapter, except KMC 12.55.060(A) and (C). [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.055).]~~

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12.55.080

Policy on accommodation of utilities.

A. Adoption. "King County Regulations for Accommodation of Utilities on County Road Rights-of-Way, 1997", or as later amended, is hereby approved and adopted as the city of Kenmore policy

for utility installation and maintenance operations within the city of Kenmore street rights-of-way.

[Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.060).]

12.55.090

Coordination of right-of-way construction.

A. The applicant, at the time of submitting an application for a right-of-way construction permit, shall notify all other public and private utility entities known to be using or proposing to use the same right-of-way of the applicant's proposed construction and the proposed timing of such construction. Any such entity notified may, within seven days of such notification, request a delay in the commencement of such proposed construction for the purpose of coordinating other right-of-way construction with that proposed by the applicant.

B. The city of Kenmore shall also coordinate the approval of right-of-way construction permits with city street improvements and maintenance and may delay the commencement date for the applicant's right-of-way construction for 90 days or less, except in the case of emergencies, if it finds that such delay will reduce the inconvenience to city street users from construction activities, if it finds that such delay will not create undue economic hardship on the applicant, or if it finds that such delay will allow the city to install conduit for future installation of fiber optic cable.

C. The city of Kenmore shall inform the Washington State Department of Transportation of all right-of-way construction permits issued within the SR 522 right of way or within one city block.

D. The city of Kenmore shall ~~review~~ forward copies of all right-of-way construction permit applications for projects 1,000 feet or longer to the department of information and administrative services. ~~The division of information technology services will determine,~~ within 15 working days, whether the installation of conduit may be needed for the future installation of fiber optic cable to connect city or other public facilities. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.070).]

12.55.100

Performance guarantee required.

Prior to final approval of all right-of-way construction permits, the department ~~of public works~~ shall determine the amount of the performance guarantee necessary to assure compliance with the approved construction plans, applicable state and local health and sanitation regulations, city standards ~~for water main and fire hydrants~~ and to assure proper restoration of the street and the health and safety of the users of the street. ~~If required, the~~ applicant shall submit the financial guarantee consistent with the provisions of KMC Title 21. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.080).]

12.55.110

Construction permit – Form.

The right-of-way construction permit granted shall be in a form approved by and be made subject to all reasonable and necessary terms and conditions imposed by the department ~~of public works~~. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.090).]

12.55.120

Notification by permittee of construction commenced.

The permittee is required to give oral or written notice of the date construction will begin to the following agencies: department ~~of public works~~ for all right-of-way construction, Seattle-King County department of public health for construction of waterworks (except for domestic service connections), city of Kenmore fire marshal for waterworks. Failure to give such notice is grounds for the revocation or suspension of the construction permit. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.100).]

12.55.130

Enforcement.

The ~~city manager~~director of the department of public works and the director of the Seattle-King County department of public health are authorized to enforce the provisions of this chapter, the ordinances codified in it, and any rules and regulations adopted hereunder pursuant to the enforcement and penalty provisions of Chapter 1.20 KMC. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.110).]

12.55.135

Productivity and customer service report.

Concurrent with the annual submittal of the city proposed budget, on or about October 1st of each year, a report shall be provided to the city council by the ~~city manager~~public works department or its successor detailing performance measurements for each function within the permit and franchises section or its successor. The performance measurements shall include historical reporting for the current year to date and the preceding three years. The data reported is to include, but not be limited to: the number of permits and other transactions processed and the number of employees for each period; the average, longest and shortest periods of time for permits processed by the department for each year; the criteria used to determine the value of easements and of annual fees for use of city property; demonstrating utilization of commonly accepted principles of real estate appraisal; and the appraisal reports and fee calculation formulas for easements and annual fees for all fees assessed in excess of \$1,000. [Ord. 03-0180 §§ 1, 2 (KCC 14.44.115).]

12.55.140

Severability.

If any provision of this chapter 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 chapter. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC
14.44.120).]

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