

THIS ARTICLE HAS BEEN COMPLETELY REWRITTEN

**Chapter 18.55
CRITICAL AREAS**

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Article XIX. Flood Hazard Areas

18.55.700 Purpose.

The Washington State Legislature has delegated the responsibility to each community to adopt *floodplain* management regulations consistent with the National Flood Insurance Program designed to promote the public health, safety and general welfare of its citizenry. The State Legislature also has established that *floodplains* and other areas subject to *flooding* perform important hydrologic functions, and as such they must also be regulated as *critical areas* under the Growth Management Act (GMA). This article addresses both mandates as an integrated set of regulations.

The *flood hazard areas* of the City of Kenmore, which encompass the Federal Emergency Management Agency (FEMA)-designated *areas of special flood hazard*, are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for *flood* protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. These *flood* losses may be caused by the cumulative effect of *development* in areas of *flood* hazard which increase *flood* heights and velocities.

Uses that are inadequately floodproofed, elevated, anchored, or otherwise protected from *flood* damage contribute to *flood* losses and may cause damage in other areas. The purpose of this article is to establish minimum standards for *developments* located within or adjacent to *flood hazard areas*, including *areas of special flood hazard*. The following statements describe the purpose of this article:

- A. Protect human life and health;
- B. Minimize expenditure of public money and costly *flood* control projects;
- C. Minimize the need for rescue and relief efforts associated with *flooding*;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public infrastructure, facilities and utilities;
- F. Minimize damage to critical fish and wildlife habitat areas;
- G. Protect frequently flooded areas that provide natural and beneficial ecological functions, including providing vital habitat to support salmon and other fish and wildlife species;
- H. Ensure that potential buyers are notified that property is in a *flood hazard area*;
- I. Ensure that those who occupy *flood hazard areas* assume responsibility for their actions; and
- J. Qualify for participation in the National Flood Insurance Program, thereby providing owners located within the mapped *area of special flood hazard* the opportunity to purchase *flood* insurance.

18.55.705 Definitions.

Most of the terms used in this article are defined in Chapter 18.20 KMC. However, there are some terms used in this article that are required to have unique meanings separate from those in Chapter 18.20 KMC. Those terms listed below are defined in 44CFR 59.1 and supersede those provided in Chapter 18.20

KMC for purposes of administering this article. Any undefined terms used in these definitions will also be based on 44CFR 59.1.

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

B. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other *structures*, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

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

D. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a *structure*.

E. "Manufactured home" means a *structure*, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term *manufactured home* does not include a *recreational vehicle*.

F. "New construction" means, for the purposes of determining insurance rates, *structures* for which the *start of construction* commenced on or after the effective date of an initial *Flood Insurance Rate Map* or after December 31, 1974, whichever is later, and includes any subsequent improvements to such *structures*. For *floodplain* management purposes, *new construction* means *structures* for which the *start of construction* commenced on or after the effective date of a *floodplain* management regulation adopted by the *City* and includes any subsequent improvements to such *structures*.

G. "Recreational vehicle" means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and

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

H. "Structure" means, for *floodplain* management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a *manufactured home*.

I. "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a *structure*, the cost of which equals or exceeds 50 percent of the market value of the *structure* before the *start of construction* of the improvement. This term includes *structures* which have incurred *substantial damage*, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a *structure* to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of an *historic structure*, provided that the alteration will not preclude the *structure's* continued designation as an *historic structure*.

J. "Variance" means a grant of relief by the *City* from the terms of a *floodplain* management regulation.

18.55.707 Lands to which this Article applies.

This article shall apply to all *flood hazard areas* within the jurisdiction of the City of Kenmore, including *areas of special flood hazards* as mapped by FEMA and shown on the *FIRM*.

18.55.710 Basis for establishing flood hazard area.

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

B. The *areas of special flood hazard* identified by the Federal Insurance Administrator (FIA) in a scientific and engineering report entitled "The Flood Insurance Study of King County, Washington and Incorporated Areas," dated November 8, 1999, and any revisions thereto, with an accompanying effective *flood insurance rate map (FIRM)*, dated November 8, 1999, and any revisions thereto, are hereby adopted by reference and declared to be a part of this article. The *flood insurance study* is on file at Kenmore City Hall. In areas where the *flood insurance study* for the *City* includes detailed *base flood elevation*

calculations, those calculations will be used until projections of future flows are completed and approved by the *City* and FEMA.

C. The *City* may use other sources of *flood* hazard data to determine *floodplain* boundaries, *floodway* boundaries, *base flood elevations* or cross sections when identifying a *flood hazard area* if the data from sources listed below is more restrictive than the effective data:

1. Preliminary Flood Insurance Rate Maps;
2. Preliminary Flood Insurance Studies;
3. Draft *flood* boundary work maps and associated technical reports;
4. *Critical area* reports prepared in accordance with FEMA standards contained in 44 C.F.R. Part 65 and consistent with the King County Surface Water Design Manual provisions for *floodplain* analysis;
5. Approved Letter of map amendments;
6. Approved Letter of map revisions;
7. Channel migration zone maps and studies;
8. Historical *flood* hazard information;
9. Wind and wave data provided by the United States Army Corps of Engineers; and
10. Any other available data that accurately classifies and delineates the *flood hazard area* or *base flood elevation*.

D. Where elevation data is not available either through the *flood insurance study* or from the *FIRM*, or another authoritative source for the *City* to administer the *floodplain* development requirements, applications for building permits shall be reviewed to ensure that proposed construction will be reasonably safe from *flooding*. The test of reasonableness is a federal, state or local source; historical data; documented high water marks; photographs of past *flooding*; or additional modeling studies, etc., where available. *Structures* shall be elevated two feet above the *highest adjacent grade* in these zones.

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

18.55.715 Permits.

A. Development Permit Required. A development permit shall be obtained before construction or *development* begins within any *flood hazard area*. The permit shall be for all *structures*, including *manufactured homes* as defined in KMC 18.55.705, and for all *development* as defined in KMC 18.55.705.

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

1. Elevation in relation to mean sea level and the effective *flood study base flood elevation* survey datum of the *lowest floor* (including *basement*) of all *structures*;
2. Elevation in relation to mean sea level and the effective *flood study base flood elevation* survey datum to which any *structure* has been floodproofed;
3. Map depicting existing conditions, *wetlands*, *streams*, waterbodies, designated fish and wildlife habitats of importance, the boundary of the *flood hazard area* and *floodway*, and the location of grading and *structures* in the proposed *development*.
4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed *development*; and
5. Certification by a registered professional engineer or architect that the *floodproofing* methods for any nonresidential *structure* meet the *floodproofing* standards in this article.

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

D. Prior to approving any permit, the *City* shall determine that all permits required by State or federal law have been obtained.

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

18.55.720 Final certification by surveyor.

A. For all new *structures* or *substantial improvements* in a *flood hazard area*, the *applicant* shall provide certification by a professional 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 surveyor shall indicate if the *structure* has a *basement*.

18.55.723 Designation and responsibilities of the local administrator.

The *city manager* is hereby appointed to administer and implement this article by granting or denying development permit applications in accordance with its provisions. Duties of the *city manager* shall include, but not be limited to:

- A. Review of the *flood hazard area* maps, and other source documents, for any *development proposal* to determine whether the proposed project area for a regulated activity falls within a potential *flood hazard area*;
- B. Review of proposed *development* located within a *flood hazard area* to ensure compliance with the *flood hazard area* standards set forth in this article; and.
- C. Interpretation of flood hazard area boundaries. The *city manager* shall make interpretations, where needed, as to exact location of the boundaries of the *flood hazard area*, including the FEMA-mapped *area of special flood hazard* (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation to the *hearing examiner* as provided in KMC Chapter 19.30.

18.55.725. Information to be obtained and maintained by the City.

- A. The *City* shall obtain, verify and record the actual elevation (in relation to mean sea level and the *base flood elevation datum*) of the *lowest floor* (including *basement*) of all new or substantially improved *structures*, and whether or not the *structure* contains a *basement*.
- B. For all new or substantially improved floodproofed *structures*, the *City* shall maintain the *floodproofing* certifications required in this article.
- C. Alteration of Watercourses.
 1. The *City* shall notify adjacent communities and the Department of Ecology, or federal resource agencies where required, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administrator through appropriate notification means.

2. The *City* shall require that the *flood* carrying capacity of the altered or relocation portion of said watercourse is maintained.
3. *Base flood elevations* may increase or decrease resulting from physical changes affecting *flooding* conditions. If a project will alter the *base flood elevation* or boundaries of the *area of special flood hazard*, then the project proponent shall provide the *City* with engineering documentation and analysis regarding the proposed change. If the change to the *base flood elevation* or boundaries of the *area of special flood hazard* would normally require a Letter of Map Change, then the applicant shall initiate, and receive approval of, a Conditional Letter of Map Revision (CLOMR) prior to approval of the development permit. The project shall be constructed in a manner consistent with the approved CLOMR. As soon as practicable, but not later than six months after the date such information becomes available, the *city manager* shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Volume 44 Code of Federal Regulations Section 65.3. The *City* reserves the right to require the *applicant* to develop and provide the required technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting *flooding* conditions, risk premium rates and *floodplain* management requirements will be based upon current data.
4. The *City* shall notify the Federal Insurance Administrator in writing of acquisition by means of annexation, incorporation or otherwise, of additional areas of jurisdiction.

D. The *City* shall maintain for public inspection all records pertaining to the provisions of this article.

18.55.730 Development standards applicable to all flood hazard areas.

Development proposals on *sites* within *flood hazard areas*, including the *area of special flood hazard*, shall meet the following requirements:

- A. Buffers. No *critical area buffer* is required for a *flood hazard area*.
- B. Anchoring.
 1. All *new construction* and *substantial improvements* shall be anchored to prevent flotation, collapse, or lateral movement of the *structure* resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and
 2. All *manufactured homes* must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize *flood* damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground

anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

C. Construction Materials and Methods.

1. All *new construction* and *substantial improvements* shall be constructed with materials and utility equipment resistant to *flood* damage.
2. All *new construction* and *substantial improvements* shall be constructed using methods and practices that minimize *flood* damage.
3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other utility and service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of *flooding*.
4. Adequate drainage paths shall be provided around *structures* on slopes to guide floodwaters around and away from proposed *structures*.

D. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during *flooding*. They shall be, to the extent possible, located outside of the *flood hazard area*. The installation of a new on-site sewage disposal system in the *flood hazard area* may be allowed if no feasible alternative *site* is available.
4. Above-ground utility transmission lines, other than electric transmission lines, shall only be allowed for the transport of nonhazardous substances.
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.
6. Water wells shall be located on high ground that is not in the *floodway*.

E. Encroachments.

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

18.55.740 Development standards for specific uses in flood hazard areas.

A. Residential Construction.

1. *New construction and substantial improvement* of any residential *structure* shall have the *lowest floor*, including *basement*, elevated one foot above the *base flood elevation*. In any *flood hazard area* where the *base flood elevation* has not been determined on the *FIRM*, the *base flood elevation* is determined by the *city manager* consistent with KMC 18.55.710.
2. Fully enclosed areas below the *lowest floor* that are subject to *flooding* are prohibited unless used solely for parking, access or storage. These areas shall be designed to automatically equalize hydrostatic *flood* forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - a. A minimum of two openings on opposite walls having a total open area of not less than one square inch for every square foot of enclosed area subject to *flooding* shall be provided;
 - b. The bottom of all openings shall be no higher than one foot above grade; and
 - c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

B. Manufactured Homes.

1. Except as noted in B.2, all *manufactured homes* to be placed or substantially improved within any *flood hazard area* shall be elevated on a permanent foundation such that the *lowest floor* of the *manufactured home* is elevated one foot above the *base flood elevation* and shall be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement. In any *flood hazard area* where the *base flood elevation* has not been determined on the *FIRM*, the *base flood elevation* is determined by the *city manager* consistent with KMC 18.55.710. The *City* reserves the right to require the *applicant* to perform the engineering studies necessary to determine the *base flood elevation*.

2. *Manufactured homes* to be placed or substantially improved on sites in an existing *manufactured home park or subdivision* within a *flood hazard area* that have not incurred *substantial damage* as the result of a *flood* shall be elevated so that either:

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

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

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

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

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

3. Be certified by a professional civil or structural engineer licensed by the State of Washington that the *floodproofing* methods are adequate to withstand the *flood* depths, pressures, velocities, impacts, uplift forces and other factors associated with the *base flood*. After construction, the engineer shall certify that the permitted work conforms with the approved plans and specifications;

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

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

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

D. Recreational Vehicles. *Recreational vehicles* placed on sites within *flood hazard areas* shall either:

1. Be on the site for fewer than 180 consecutive days;
2. Be fully licensed and ready for highway use, on their wheels or jacking systems, attached to the *site* only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
3. Meet the requirements of subsection B of this section, including the elevation and anchoring requirements.

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

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

1. New building *lots* shall contain 5,000 square feet or more of buildable land outside the *flood hazard area*, and building *setback* areas shall be shown on the face of the plat to restrict permanent *structures* to this buildable area;
2. All utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed consistent with KMC 18.55.730;
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 *flood hazard area* and the *floodway*, if determined;
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*;
5. All subdivision proposals shall be consistent with the need to minimize *flood* damage; and

6. All subdivision proposals shall have adequate drainage provided to reduce exposure to *flood* damage.

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.

18.55.750 Development in the floodway.

A. Encroachments. Encroachments, including fill, *new construction*, *substantial improvements*, and other *development*, within the adopted regulatory *floodway* are prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachments shall not result in any increase in *flood* levels within the *City* during the occurrence of the *base flood* discharge.

B. If the requirements in Subsection A are satisfied, the requirements which apply to *all flood hazard areas* (KMC 18.55.730 and .740), including the *area of special flood hazard*, shall also apply to all *new construction* and *substantial improvements* in the *floodway*. The more restrictive requirements shall apply where there is a conflict.

C. Any *development proposal*, including, but not limited to, new or reconstructed *structures*, that results in any increase in the *base flood elevation* shall meet the following requirements:

1. Amendments to the *flood insurance rate map* are approved and adopted by FEMA, in accordance with all requirements of 44CFR 65.7, 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.

D. If allowed, post or piling construction techniques which permit water flow beneath a *structure* shall be used.

18.55.760 Habitat assessment

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

18.55.770 Warnings and disclaimer of liability.

The degree of *flood* protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. *Floods* larger than the regulatory *base flood* can and will occur. *Flooding* and *flood* hazards may occur in unmapped areas. *Flood* heights may be increased by manmade or natural causes. This article does not imply that land outside *flood hazard areas* or uses permitted within such areas will be free from *flooding* or *flood* damages. This article shall not create liability on the part of the City of Kenmore, any officer or employee thereof, or the Federal Emergency Management Agency for any *flood* damages that result from reliance on this article or any administrative decision lawfully made hereunder.

18.55.780 Variances in flood hazard areas.

A. Conditions for Variances.

1. Generally, the only condition under which a *variance* from the elevation standard may be issued is for *new construction* and *substantial improvements* to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing *structures* constructed below the *base flood* level, providing subsections (B)(1) through (B)(11) of this section have been fully considered. As the lot size increases the technical justification required for issuing the *variance* increases.
2. *Variances* may be issued for the repair or rehabilitation of *historic structures* or the *City's* local landmarks, upon a determination that the proposed repair or rehabilitation will not preclude the *structure's* continued designation as a *historic structure* and the *variance* is the minimum necessary to preserve the historic character and design of the *structure*.
3. *Variances* shall not be issued within a designated *floodway* if any increase in *flood* levels during the *base flood* discharge would result.
4. *Variances* shall only be issued upon a determination that the *variance* is the minimum necessary, considering the *flood* hazard, to afford relief.
5. *Variances* shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the *variance* would result in exceptional hardship to the applicant;

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

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

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

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

B. If a *variance* to the standards in this article is proposed, the decisionmaker shall consider, in addition to the conditions itemized in subsection A, above, and the standard *variance* criteria itemized in KMC 18.115.030:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to *flooding* or erosion damage;
3. The susceptibility of the proposed facility and its contents to *flood* damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed *use* which are not subject to *flooding* or erosion damage;
7. The compatibility of the proposed *use* with existing and anticipated *development*;

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

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

10. The expected depths, heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the *site*; and

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

C. The *city manager* shall report any *variances* to the Federal Emergency Management Agency upon request.

18.55.790 Penalties for noncompliance.

No *structure* or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. Violations of the provisions of this article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein contained shall prevent the City of Kenmore from taking such other lawful action as is necessary to prevent or remedy any violation.

18.55.795 Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.