

**CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 19-0490**

**AN ORDINANCE OF THE CITY OF KENMORE,
WASHINGTON; REVISING DIVISION 1 OF TITLE 16 OF
THE KENMORE MUNICIPAL CODE ENTITLED
SHORELINE MANAGEMENT; REVISING THE
SHORELINE ENVIRONMENT DESIGNATIONS MAP;
AND PROVIDING AN EFFECTIVE DATE.**

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

WHEREAS, the SMA's legislative findings identify that: 1) the shorelines of the state are among the most valuable and fragile of its natural resources; 2) there is great concern throughout the state relating to their utilization, protection, restoration, and preservation; and 3) that unrestricted construction on private or publicly owned shorelines is not in the best interest of the public; and

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

WHEREAS, RCW 90.58.020 directs local governments developing shoreline master programs to give preference to uses in the shorelines in the following order of preference which: 1) recognize and protect the State-wide interest over local interest; 2) preserve the natural character of the shoreline; 3) result in long-term over short-term benefit; 4) protect the resources and ecology of the shorelines; 5) increase public access to publicly-owned areas of the shorelines; 6) increase recreational opportunities for the public in the shoreline; and 7) provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary; and

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

WHEREAS, in the summer of 2018, the City began its update of the Shoreline Sub-Element of the Comprehensive Plan and shoreline regulations (SMP Update) with the assistance of grant funding from Ecology; and

WHEREAS, the City prepared a gap analysis to identify portions of the Shoreline Master Program needing amendment; and

WHEREAS, the results of this analysis are contained in the document entitled, City of Kenmore Critical Areas Regulations and Shoreline Master Program Gap Analysis and Recommendations, August 30, 2018 (Gap Analysis); and

WHEREAS, consistent with the requirements of WAC 173-26-186(8)(d), the City conducted a supplemental analysis of potential cumulative impacts of the updated Shoreline Master Program. The supplemental cumulative impact analysis is contained in the document entitled, City of Kenmore, Cumulative Impacts Analysis Addendum, May 2019; and

WHEREAS, to satisfy the requirements for the use of scientific and technical information in RCW 90.58.100(1) and WAC 173-26-201(2)(a), the City has utilized best available science to draft the proposed SMP Update; and

WHEREAS, over the past year, the City's Planning Commission has reviewed and revised a number of documents, including: the Shoreline Sub-Element of the Comprehensive Plan; proposed revisions to shoreline regulations; and proposed revisions to critical area regulations; and

WHEREAS, throughout the SMP Update process, the City has made a concerted effort to generate public involvement, including holding a public open house and two public forums; creating a comprehensive and regularly-updated web page devoted to the SMP update; and maintaining a large mailing list in order to keep interested parties informed; and

WHEREAS, Ecology completed its initial review of the proposed SMP Update and submitted comments to the City, and the City has reviewed and acted upon said comments; and

WHEREAS, the Planning Commission held a public hearing on the SMP Update on March 26, 2019, and two interested parties testified, and three additional written comments were received; and

WHEREAS, on May 13, 2019, the Planning Commission presented their preliminary recommendations for the proposed SMP Update to the City Council, and the Council considered those recommendations on May 13, 2019, May 20, 2019, and June 10, 2019; and

WHEREAS, on May 23, 2019, the City's Responsible Official under the State Environmental Policy Act issued a determination of non-significance for the proposed SMP Update; and

WHEREAS, on March 14, 2019, the City provided notice to the Washington State Department of Commerce regarding the proposed amendments to the shoreline regulations and SMP Update pursuant to RCW 36.70A.106; and

WHEREAS, on June 10, 2019, the City Council held a public hearing on the proposed SMP Update; and

WHEREAS, the City Council has considered public testimony and comments, staff and consultant input, Ecology's comments, and certain documents and information, including: 1) The

Gap Analysis; 2) the Cumulative Impacts Analysis Addendum; 3) the Shoreline Sub-Element of the City of Kenmore Comprehensive Plan; 4) the City of Kenmore Shoreline Master Program draft shoreline regulations; 5) Ecology's Shoreline Master Program Periodic Review Checklist; 6) SEPA Determination of Nonsignificance; and 7) Docket Criteria Analysis; and

WHEREAS, consistent with WAC 173-26-186(d), the SMP Update evaluates and considers cumulative impacts of reasonably foreseeable future development on shoreline ecological functions and other shoreline functions fostered by the policy goals of the SMA; and

WHEREAS, to ensure no net loss of ecological functions and protection of other shoreline functions and/or uses, the SMP Update contains policies, programs and regulations that address adverse cumulative impacts and fairly allocate the burden of addressing cumulative impacts among development opportunities; and

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

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

WHEREAS, the City Council desires to amend Division 1 of Title 16 of the KMC; now therefore

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

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

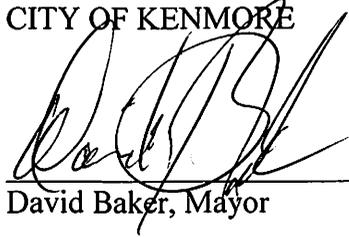
Section 2. Amendment of Title 16 KMC; Adoption of Shoreline Master Program Development Regulations. The City Council amends Title 16 of the Kenmore Municipal Code and adopts the City of Kenmore Shoreline Master Program Shoreline Regulations, as set forth in Exhibit 1, attached hereto and incorporated by reference.

Section 3. Map Adopted. The City Council adopts revised Map 1, Shoreline Environment Designations Map, attached hereto as Exhibit 2, and incorporated by reference.

Section 4. Effective Date. This Ordinance shall be published in the official newspaper of the City, and pursuant to RCW 90.58.090(7) shall take effect and be in full force fourteen (14) days from the date of the Washington State Department of Ecology's written notice of final action approving the shoreline master program amendments.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 17 TH DAY OF June, 2019.

CITY OF KENMORE



David Baker, Mayor

ATTEST/AUTHENTICATED:



Kelly Chelin, City Clerk

Approved as to form:



Dawn Reitan, City Attorney

Filed with the City Clerk: 6/17/19
Passed by the City Council: 6/17/19
Ordinance No.: 19-0490
Date of Publication: 6/20/19
Effective Date:

Title 16
ENVIRONMENTSHORELINE MANAGEMENT

Chapters:

Division I. Shoreline Management

16.05 Shoreline Management Code – Purpose and Scope

16.10 Definitions

16.15 Shoreline Environment Designations

16.20 Downtown Waterfront Environment

16.23 Swamp Creek Commercial Environment

16.25 Shoreline Residential Environment

16.30 Urban Conservancy Environment

16.35 Natural Environment

16.40 Aquatic Environment

16.45 General Shoreline Development Standards

16.50 Shoreline Uses

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Division I. Shoreline Management

Chapter 16.05

SHORELINE MANAGEMENT CODE – PURPOSE AND SCOPE

Sections:

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

16.05.010 Purpose.

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

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

16.05.020 Citation.

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

16.05.030 Scope.

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

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

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

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

16.05.050 Liberal construction.

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

16.05.060 Relationship to other Kenmore programs.

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

1. Building permit;
2. Right-of-way construction permit;
3. Short subdivision approval;
4. Grading permit;
5. Site plan approval;
6. Access permit;
7. Trail permit;
8. State flood control zone permit;
9. Zoning variance;
10. Conditional use permit;
11. Comprehensive plan amendment or addition;

- 12. Zone reclassification;
- 13. Special use permit;
- 14. Subdivision approval;
- 15. Mobile home park permit;
- 16. Mobile home permit;
- 17. Recreational vehicle park permit; and
- 18. Site plan review permit.

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

1. Chapter 1.20 KMC – Code Enforcement.
2. Chapter 18.55 KMC – Critical Areas, except for the following sections:
 - a. KMC 18.55.150 - Exemptions
 - b. KMC 18.55.160 – Exception – Public Agency and Utility
 - c. KMC 18.55.170 – Variances
 - d. KMC 18.55.180 – Exception – Reasonable Use
 - e. KMC 18.55.230 – Unauthorized critical area alterations and enforcement.

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

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

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

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

6. KMC 18.55.190 – Critical areas reports – Requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
7. KMC 18.55.200 – Mitigation requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
8. KMC 18.55.210 – Mitigation sequencing (as adopted in Ordinance No. 12-0334).
9. KMC 18.55.220 – Mitigation plan requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
10. KMC 18.55.230 – Unauthorized alterations and enforcement (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
11. KMC 18.55.250 – Notice on title (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
12. KMC 18.55.260 – Critical area tracts (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
13. KMC 18.55.270 – Building setbacks (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
14. KMC 18.55.280 – Bonds to ensure mitigation, maintenance, and monitoring (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
15. KMC 18.55.290 – Critical area inspections (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
16. KMC 18.55.300 – Designation and rating of wetlands (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
17. KMC 18.55.320 – Wetland performance standards – General requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334, and as further amended through Ordinance 12-0334).
18. KMC 18.55.330 – Wetland performance standards – Mitigation requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334, and as further amended through Ordinance 12-0334).

19. KMC 18.55.400 — Designation and rating of streams (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
20. KMC 18.55.420 — Streams performance standards — General requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
21. KMC 18.55.430 — Streams performance standards — Mitigation requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
22. KMC 18.55.500 — Designation of fish and wildlife habitats of importance (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
23. KMC 18.55.520 — Fish and wildlife habitat performance standards — General (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
24. KMC 18.55.530 — Fish and wildlife habitat performance standards — Mitigation requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334, and as further amended through Ordinance 12-0334).
25. KMC 18.55.600 — Geologically hazardous areas — Purpose (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
26. KMC 18.55.610 — Designation of geologically hazardous areas (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
27. KMC 18.55.620 — Designation of specific hazard areas (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
28. KMC 18.55.640 — Geologically hazardous areas performance standards — General requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
29. KMC 18.55.650 — Geologically hazardous areas performance standards — Specific areas (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).
30. KMC 18.55.700 — Flood hazard areas (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

31. KMC 18.55.710 – Flood fringe – Development standards and permitted alterations (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

32. KMC 18.55.720 – Zero-rise floodway – Development standards and permitted alterations (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

33. KMC 18.55.730 – FEMA floodway – Development standards and permitted alterations (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

34. KMC 18.55.740 – Flood hazard areas – Certification by engineer or surveyor (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

35. KMC 18.55.750 – Channel relocation and stream meander areas requirements (as codified from Ordinance No. 06-0244 and set forth in Appendix 1 to Exhibit 1 of Ordinance 12-0334).

Other sections of the Kenmore Municipal Code cross-referenced in this chapter are provided for reference purposes. Unless specifically stated, the *Shoreline Master Program* does not eliminate or reduce the requirements of any other portion of the Kenmore Municipal Code.

16.05.070 Severability.

If any provision of this title or the master program regulations and procedures hereby adopted or its application to any person or circumstance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this title or the master program.

Certain eCritical area code sections from Chapter 18.55 KMC – as they existed at the time of *Shoreline Master Program* approval by the Washington Department of Ecology in 20122019 and are described in KMC 16.05.060(B) – have been adopted into the shoreline regulations as part of the *Shoreline Master Program*. Future amendments to these sections of Chapter 18.55 KMC will not be in effect in the shoreline jurisdiction unless and until the *Shoreline Master Program* also is amended.

Chapter 16.10

DEFINITIONS

Sections:

- 16.10.010 Applicability of RCW and WAC definitions.
- 16.10.030 Access, public.
- 16.10.032 Accessory structure.
- 16.10.035 Accessory use.
- 16.10.02038 Applicant.
- 16.10.040 Aquaculture.
- 16.10.050 Associated wetlands.
- 16.10.060 Average grade level.
- ~~16.10.070 Backfill.~~
- 16.10.080 Berm.
- 16.10.083 Boat launch
- 16.10.085 Boating facility.
- 16.10.090 Breakwater.
- 16.10.100 Bulkhead.
- 16.10.105 Channel migration zone.
- 16.10.106 City manager.
- ~~16.10.107 Commercial development.~~
- 16.10.110 Critical areas.
- ~~16.10.115 Critical freshwater habitat.~~
- 16.10.120 Department.
- 16.10.130 Development.
- ~~16.10.140 Director.~~
- 16.10.150 Dock.
- 16.10.160 Dredging.
- 16.10.170 Ecological functions.
- 16.10.173 Ecosystem-wide processes.
- 16.10.175 EII.
- 16.10.178 Feasible.
- 16.10.180 Fill.
- 16.10.185 Fish and wildlife habitats area of importance.
- 16.10.190 Float.

- 16.10.200 Floating home.
- 16.10.210 Floodplain.
- 16.10.220 Floodway.
- ~~16.20.225 Geotechnical report or geotechnical analysis.~~
- 16.10.230 Grading.
- ~~16.10.235 Government services.~~
- 16.10.240 Groin.
- ~~16.10.250 Hatchery.~~
- 16.10.260 Height.
- 16.10.270 Jetty.
- 16.10.275 Live-aboard.
- 16.10.280 Marina.
- ~~16.10.285 Manufacturing uses.~~
- 16.10.~~310~~~~285~~ No net loss.
- 16.10.290 Nonconforming structure.
- 16.10.300 Nonconforming use.
- 16.10.320 Non-water-oriented uses.
- ~~16.10.330 Normal protective bulkhead common to single-family residences.~~
- ~~16.10.340 Open space, required.~~
- 16.10.350 Ordinary high-water mark.
- ~~16.10.355 Park/recreation recreational/cultural uses.~~
- 16.10.360 Pier.
- ~~16.10.370 Port.~~
- ~~16.10.375 Ramp~~
- 16.10.380 Recreational development.
- 16.10.390 Redesignation.
- ~~16.10.395 Residential development.~~
- 16.10.400 Restoration.
- ~~16.10.410 Riprap.~~
- 16.10.420 Sediment.
- ~~16.10.430 Shall.~~
- ~~16.10.440 Should.~~
- 16.10.~~450~~~~40~~ Shorelands.
- 16.10.445 Shoreline buffer.
- 16.10.460 Shoreline environment.
- 16.10.470 Shoreline Master Program.

- 16.10.480 Shoreline modifications.
- 16.10.500 Shoreline stabilization.
- 16.10.510 Shorelines.
- 16.10.520 Shorelines of statewide significance.
- 16.10.530 Shorelines of the State.
- 16.10.540 Sign.
- ~~16.10.550 Significant vegetation removal.~~
- 16.10.560 Solid waste.
- 16.10.570 Substantial development.
- ~~16.10.580 Utilities and utility facilities.~~
- ~~16.10.575 Water access structure.~~
- 16.10.590 Water-dependent use.
- 16.10.6100 Water-enjoyment use.
- 16.10.6210 Water-oriented use.
- 16.10.6020 Water-related use.
- ~~16.10.630 Water transmission pipeline.~~
- 16.10.640 Wetlands.

16.10.010 Applicability of RCW and WAC definitions.

The definitions contained in this chapter, KMC Title 18 (zoning code), Chapter 90.58 RCW and Chapter 173-26 WAC shall apply within the shoreline jurisdiction. The definitions in Chapter 90.58 RCW and Chapter 173-26 WAC shall apply in *shorelines* if there is a conflict with the definitions contained in this title and KMC Title 18.

16.10.030 Access, public.

“Public access” means the ability of the general public to reach, touch, and enjoy the water’s edge, to travel on waters of the State, and to view the water and the shoreline from adjacent locations.

16.10.032 Accessory structure.

“Accessory structure” means a structure that is incidental to the principal structure.

16.10.035 Accessory use.

~~“Accessory use” means a use that is incidental to a principal use.~~ “Accessory use” means a use typically subordinate in size to the principal use; that would not contribute significantly to traffic generation, noise, or nuisance; and that supports the primary use operation without displacing it. An accessory use may

appear as an otherwise permitted, conditional or prohibited use in the use allowances for a given designation. Accessory uses are typically located upon the same *lot* occupied by a principal use. Examples of accessory uses include: equipment rental (bikes or skis) at a retail bike and ski shop, a secure facility required at an airport, and boat parking at a *marina*.

16.10.02038 Applicant.

“Applicant” means a person who files an application for a *development* proposal, permit or approval under this title and who is either the owner of the land on which that proposed activity would be located or the primary proponent of the project. A primary proponent shall have the permission of the landowner before proceeding with an application a property owner or a public agency or public or private utility which owns a right-of-way or other easement or has been adjudicated the right to such an easement pursuant to RCW 8.12.090, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a *development* proposal, permit or approval.

16.10.040 Aquaculture.

“Aquaculture” means the culture or farming of fin fish, shellfish, algae or other plants or animals in fresh or marine waters. Excluded from the definition of aquaculture are related commercial or industrial uses such as wholesale or retail sales, or final processing, packing, or freezing.

16.10.050 Associated wetlands.

“Associated wetlands” means *wetlands* that are in proximity to *tidal waters*, lakes, rivers or streams that are subject to the Shoreline Management Act and either influence or are influenced by such waters. Factors used to determine proximity and influence include, but are not limited to: location contiguous to a shoreline water body, *formation by tidally influenced geohydraulic processes*, presence of a surface connection, including through a culvert *or tide gate*, location in part or whole within the *floodplain* of a shoreline, periodic inundation, and/or hydraulic continuity.

16.10.060 Average grade level.

“Average grade level” is defined in WAC 173-27-030(3) and (11) as now or hereafter amended; as of insert effective date of ordinance, “average grade level” means “the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure. In the case of structures to be built over water, average grade level shall be the elevation of the *ordinary high-water mark*. The “natural or existing topography” means the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or *grading*.

including excavation or filling. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.”

16.10.070 Backfill.

“Backfill” means the placement of earth material behind a retaining wall or structure.

16.10.080 Berm.

“Berm” means one or several linear mounds of sand and gravel at or landward of the *ordinary high-water mark* which are normally stable because of material size or vegetation.

16.10.083 Boat launch.

“Boat launch” means an inclined slab, set of pads, rails, planks, or graded slope which extends waterward of the *ordinary high-water mark*, and is used for transferring watercraft between uplands and the water by means of a trailer, hand, or mechanical device.

16.10.085 Boating facility.

“Boating facility” means developments and uses that support access to shoreline waters for purposes of boating, including *marinas*; *community docks or piers* serving more than four single-family residences or multifamily units; *public piers and docks*; and *community, commercial or public boat launch facilities*.

16.10.090 Breakwater.

“Breakwater” means an offshore structure, either floating or not, which may or may not be connected to the shore, such structure being designated to absorb and/or reflect back into the water body the energy of the waves.

16.10.100 Bulkhead.

“Bulkhead” means a solid or open pile wall of rock, concrete, steel or timber or other materials or a combination of these materials erected generally parallel to and near the *ordinary high-water mark* for the purpose of protecting adjacent *wetlands* and uplands from waves or currents.

16.10.105 Channel migration zone.

"Channel migration zone" means the area within which a river channel is likely can be reasonably predicted to move over a period of time as a result of natural and normally-occurring hydrological and related processes when considered with the characteristics of the river and its surroundings., and The channel migration zone is therefore subject to risk due to stream bank destabilization, rapid stream incision, stream bank erosion, and shifts in the location of stream channels. Channel relocation and stream meander areas as defined at KMC 18.55.750 are channel migration zones.

160.10.106 City manager.

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

16.10.107 Commercial development.

"Commercial development" includes general services, business services, and retail, defined as follows:

A. General services includes general personal services, funeral home/crematory, cemetery/columbarium/mausoleum, day care facilities, veterinary clinic, automotive repair, automotive services, vessel construction and outfitting, miscellaneous repair, churches/synagogues/temples, social services, stable, kennel/cattery, theatrical production services, artist studios, interim recycling facility, office/outpatient clinic, nursing and personal care facilities, hospital, medical/dental lab, miscellaneous health, and school district support facility.

B. Business services includes construction and trade, individual transportation and taxi, trucking and courier service, self-service storage, dry boat storage, commercial moorage, transportation service, freight or cargo service, passenger transportation service, communication offices, telegraph and other communications facilities, general business service, professional office, outdoor advertising service, miscellaneous equipment rental, automotive rental and leasing, professional sport teams/promoters, research development and testing, and commercial/industrial accessory uses.

C. Retail includes building/hardware/garden materials, forest products sales, department and variety stores, food stores, agricultural product sales, motor vehicle and boat dealers, auto supply stores, gasoline service stations, apparel and accessory stores, furniture and home furnishings stores, eating and drinking places, drug stores, liquor stores, used goods shops, sporting goods and related stores, book/stationery/video/art supply stores, jewelry stores, monuments/tombstones/gravestones, hobby/toy/game shops, photographic and electronic shops, fabric shops, fuel dealers, florist shops, personal medical supply stores, pet shops, bulk retail, auction houses, livestock sales, and food vendors.

16.10.110 Critical areas.

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

16.10.115 Critical freshwater habitat.

"Critical freshwater habitat" shall refer to *shorelines* meeting the definition of "fish and wildlife habitat of importance" in KMC 18.55.520.

16.10.120 Department.

"Department" means the department of community development city department or outside agency assigned by the city manager to administer a portion of the City code.

16.10.130 Development.

"Development" is defined in Chapter 90.58 RCW and WAC 173-27-030 as now or hereafter amended; as of insert effective date of ordinance, "development" means " a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Shoreline Management Act at any state of water level. Development does not include dismantling or removing structures if there is no other associated development or redevelopment."

16.10.140 Director.

"Director" means the director of the department of community development or an authorized designee.

16.10.150 Dock.

"Dock" means all platform structures or anchored devices in or an anchored walkway or other surface that abuts the shoreline and floats floating upon the water bodies to provide moorage for pleasure craft watercraft or landing for water-dependent recreation including, but not limited to, floats, swim floats, float plane moorages, and water-ski jumps. Excluded are launch ramps. Dock is the term which collectively applies to a ramp and float, or it may be comprised of a float only that abuts the shoreline.

16.10.160 Dredging.

"Dredging" means the removal, displacement, and/or disposal of unconsolidated earth material such as sand, silt, gravel, or other submerged materials from the bottom of water bodies, ditches, or *wetlands*; maintenance dredging and/or support activities are included in this definition.

16.10.170 Ecological functions.

"Ecological functions" or shoreline functions means the work performed or role played by the physical, chemical and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

16.10.173 Ecosystem-wide processes.

"Ecosystem-wide processes" is defined in WAC 173-26-020(14) as now or hereafter amended; as of insert effective date of ordinance, "ecosystem-wide processes" means "the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions."

16.10.175 EII.

"EII" means a terminal *pier* section oriented perpendicular to the *pier* walkway.

16.10.178 Feasible.

"Feasible" is defined in WAC 173-26-020(15) as now or hereafter amended; as of insert effective date of ordinance, "feasible" means, for the purpose of this title, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

- A. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
- B. The action provides a reasonable likelihood of achieving its intended purpose; and
- C. The action does not physically preclude achieving the project's primary intended legal use.

In cases where this title requires certain actions unless they are infeasible, the burden of proving infeasibility is on the *applicant*.

In determining an action's infeasibility, the *department* may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames."

16.10.180 Fill.

"Fill" means the addition of soil, sand, rock, gravel, *sediment*, earth retaining structure or other material to an area waterward of the *ordinary high-water mark*, in *wetlands*, or on *shorelands* in a manner that raises the elevation or creates dry land.

16.10.185 Fish and wildlife habitats area of importance.

"Fish and wildlife habitats area of importance" means those habitat areas defined in KMC 18.55.500 that meet any of the following criteria:

A. Documented presence of species listed by the federal government or the State of Washington as endangered or threatened; or

B. Heron rookeries or active nesting trees; or

C. Class 1 Category I *wetlands* as defined in KMC 18.55.300; or

D. Type 1 streams *S waters* as defined in KMC 18.55.400; or

E. Bald eagle habitat protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292) federal Bald and Golden Eagle Protection Act.

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

16.10.190 Float.

"Float" means a structure or device which is not a breakwater floats on the surface of the water and which is moored, anchored, or otherwise secured in the waters of the City of Kenmore and which is not directly connected to or abutting the shoreline. A float which is directly connected to or abutting the shoreline is considered a *dock*.

16.10.200 Floating home.

"Floating home" means a houseboat, boat or building constructed on a float, used in whole or in part for human habitation as a dwelling unit, and which is moored, anchored, or otherwise secured in waters

within the City of Kenmore single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed.

16.10.210 Floodplain.

“Floodplain” is defined in WAC 173-26-020(19) as now or hereafter amended; as of insert effective date of ordinance, “floodplain” is synonymous with “100-year floodplain” and means thethat land area that may be inundated by the base flood of a river or stream susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps, or a reasonable method which meets the objectives of the Shoreline Management Act.”

16.10.220 Floodway.

“Floodway” means those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which floodwaters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually; said floodway being identified, under normal conditions, by changes in surface soil conditions or changes in types or quality of vegetation ground cover condition. The floodway shall not include lands that can reasonably be expected to be protected from floodwaters by flood control devices maintained by or maintained under license from the federal government, the State, or the county.

16.20.225 Geotechnical report or geotechnical analysis.

“Geotechnical report” or “geotechnical analysis” is defined in WAC 173-26-020(21) as now or hereafter amended; as of insert effective date of ordinance, “geotechnical report” or “geotechnical analysis” means “a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.”

16.10.230 Grading.

"Grading" means the addition, excavation, movement, or redistribution of soil, sand, rock, gravel, *sediment* or other material on a site in a manner that alters the natural contour of the land.

16.10.235 Government services.

"Government services" means a public agency or utility office, public agency or utility yard, public agency archives, court, police facility, fire facility, caretaker residence/accessory, City government offices, elementary school, middle/junior high school, secondary/high school, specialized instruction school, K-12 educational institutions (public or private), and colleges/universities.

16.10.240 Groin.

"Groin" means a barrier-type structure extending from the backshore into the water across the beach. The purpose of a groin is to interrupt *sediment* movement along the shore.

16.10.250 Hatchery.

"Hatchery" means a facility for the rearing and/or holding of fish, the design of which is compatible with the natural environment and contains minimal development necessary for fish propagation.

16.10.260 Height.

"Height" is defined in WAC 173-27-030(9) as now or hereafter amended; as of insert effective date of ordinance, "height" shall be measured from the average finished grade to the highest point of the roof. The average finished grade shall be determined by first delineating the smallest square or rectangle which can enclose the building and then averaging the elevations taken at the midpoint of each side of the square or rectangle; provided, that the measured elevations do not include berms" is measured from average grade level to the highest point of a structure; provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial numbers of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included; provided further, that temporary construction equipment is excluded in this calculation."

16.10.270 Jetty.

"Jetty" means an artificial barrier used to change the natural littoral drift to protect inlet entrances from clogging by excess *sediment*.

16.10.275 Live-aboard.

“Live-aboard” means a licensed vessel that is used as a primary residence.

16.10.280 Marina.

“Marina” means a marine retail sales and service use, in which a system of *piers*, buoys, docks or floats is used to provide moorage, primarily for pleasure craft, for sale or rent, usually on a monthly or yearly basis.

16.10.285 Manufacturing uses.

“Manufacturing uses” means production of food and kindred products, winery/brewery, apparel and other textile products, wood products, furniture and fixtures, leather and leather goods, stone/clay/glass/concrete products, computer and office equipment, electronic and other electric equipment, measuring and controlling instruments, printing and publishing, miscellaneous light manufacturing, tire retreading, movie production and distribution, and commercial barge loading and unloading facility.

16.10.310285 No net loss.

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

16.10.290 Nonconforming structure.

“Nonconforming structure” means a structure that was lawfully constructed prior to the effective date of these regulations, but which no longer conforms to the applicable regulations of the master program.

16.10.300 Nonconforming use.

“Nonconforming use” means a use that was lawfully established prior to the effective date of these regulations, but which no longer conforms to the applicable regulations of the master program.

16.10.320 Non-water-oriented uses.

"Non-water-oriented uses" means those uses that are not *water-dependent*, *water-related* or *water-enjoyment*.

16.10.330 Normal protective bulkhead common to single-family residences.

"Normal protective bulkhead common to single-family residences" means a *bulkhead* constructed on a building site zoned to permit one single-family residence and containing one single-family residence.

16.10.340 Open space, required.

"Required open space" means a portion of the area of a building site, which is required by this title, as set forth in different designations contained in this title, to be maintained as open area to be available for use by the persons specified in a development. Open spaces are required to be free and clear of buildings and structures and to remain open and unobstructed from the ground to the sky.

16.10.350 Ordinary high-water mark.

"Ordinary high-water mark" means the ordinary high-water mark as defined in Chapter 90.58 RCW as now or hereafter amended; as of insert effective date of ordinance, "ordinary high-water mark" means "that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the *department*: PROVIDED, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark shall be the line of mean high water."

16.10.355 Park/recreation recreational/cultural uses.

"Park/recreation recreational/cultural uses" means destination resorts, recreational vehicle park, theater, drive-in theater, bowling center, amusement and recreation services, amusement arcades, amusement park, library, museum, conference center, arboretum, cultural facilities, indoor recreational facilities (including sports clubs), open space, outdoor recreational facilities, parks, trails, wildlife shelter, and outdoor performance center.

16.10.360 Pier.

"Pier" means any platform structure, fill, or anchored device in or floating upon water bodies to provide moorage for watercraft engaged in commerce over-water, stationary, pile-supported structure that does not float on the water's surface and provides a location for boat moorage or other water-oriented or water-dependent use.

16.10.370 Port.

"Port" means public or private facilities for transfer of cargo or passengers from waterborne craft to land and vice versa; including, but not limited to: piers, commercial float plane moorages, offshore loading or unloading buoys, ferry terminals, and required dredged waterways, moorage basins, and equipment for transferring cargo or passengers between land and water modes. Excluded from this definition and addressed elsewhere are airports, marinas, boat ramps or docks used primarily for recreation, cargo storage and parking areas not essential for port operations, boat building or repair. The latter group is considered industrial or accessory to other uses.

16.10.375 Ramp.

"Ramp" means a walkway connecting a pier, or other shoreward structure or the shoreline to a float and providing access between the two.

16.10.380 Recreational development.

"Recreational development" means a private or public development operated and devoted to facilities and equipment for recreational purposes, including but not limited to swimming pools, tennis courts, playgrounds, picnic areas, campgrounds, resorts and other similar uses whether the use of such area is limited to those paying a fee or free to the public. Also see definition for "park/recreation recreational/cultural uses."

16.10.390 Redesignation.

"Redesignation" means a change in the shoreline environment designation by the procedures provided in Chapter [16.75](#) KMC.

16.10.395 Residential development.

"Residential development" includes single-family and multiple-family dwellings, group residences, temporary lodging, and uses that are accessory to residential development.

A. "Dwelling, single-family" means a detached residence for one family.

B. "Dwelling, multiple-family" means a townhouse, apartment, and mobile home parks.

C. "Group residences" means community residential facilities, dormitory, and senior assisted housing.

D. "Temporary lodging" means hotel/motel, bed and breakfast guesthouse, and organization hotel/lodging houses.

E. "Accessory uses" means residential accessory uses, home occupation, and home industry.

16.10.400 Restoration.

"Restoration" or "ecological restoration" means the reestablishment or upgrading of impaired ecological shoreline processes or functions. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

16.10.410 Riprap.

"Riprap" means hard angular quarry rock used for revetments or other bank stabilization projects.

16.10.420 Sediment.

"Sediment" means material settled from suspension in a liquid medium.

16.10.430 Shall.

"Shall" means a mandate; the action must be done.

16.10.440 Should.

"Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of Chapter 90.58 RCW and Chapter 173-26 WAC, against taking the action.

16.10.45040 Shorelands.

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

16.10.445 Shoreline buffer.

“Shoreline buffer” means a required vegetation conservation area measured horizontally upland from and perpendicular to the *ordinary high-water mark*, as described in KMC 16.65.020.

16.10.460 Shoreline environment.

“Shoreline environment” or “shoreline environment designation” means the categories of *shorelines of the State* established by the City of Kenmore shoreline management master program to differentiate between areas whose features imply differing objectives regarding their use and future development.

16.10.470 Shoreline Master Program.

A. “Shoreline Master Program” consists of the following two elements:

1. Shoreline management goals and policies contained in the shoreline subelement of the Kenmore comprehensive plan. The shoreline management goals and policies constitute the official policy of Kenmore regarding areas of the City subject to shoreline management jurisdiction under Chapter 90.58 RCW;
2. The shoreline regulations specified in this chapter.

B. The following technical and planning information provides a foundation for shoreline policies and regulations, and is intended to aid in implementing and evaluating the Shoreline Master Program:

1. The shoreline protection and *restoration* plan;
2. The cumulative impacts analysis, which provides a mechanism for examining the success of meeting the requirement for *no net loss of ecological functions*;
3. The Shoreline Master Program checklist and public involvement process, which shows how Kenmore meets the procedural requirements for updating the Shoreline Master Program; and
4. The shoreline inventory and characterization, which includes data and analytic methods used to develop Kenmore’s shoreline inventory and shoreline characterization.

16.10.480 Shoreline modifications.

“Shoreline modifications” means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, *breakwater*, *pier*,

fill, *bulkhead*, or other shoreline structure. Shoreline modifications can include other actions, such as clearing, *grading*, or application of chemicals.

16.10.500 Shoreline stabilization.

“Shoreline stabilization” means actions taken to address erosion impacts to property and dwellings, businesses or structures caused by natural processes, such as current, flood, *tides*, wind or wave action. These actions include installation or expansion of structures, such as *bulkheads*, *jetties*, *groins* or vegetation, and nonstructural methods, such as relocation of the structure to be protected, or groundwater management.

16.10.510 Shorelines.

“Shorelines” means lakes greater than 20 acres and rivers and streams with a minimum of 20 cubic feet per second mean annual flow, including the entire water body waterward from the *ordinary high-water mark* from its centerline or point, all water below the surface and associated *shorelands*. Kenmore shorelines are shown on the adopted map entitled Kenmore Shoreline Environment Designations (attached to Ord. [12-033419-0490](#) as Exhibit 2, and incorporated by reference). If there is a discrepancy between the map and the criteria established in this section, the criteria shall constitute the official Kenmore shoreline jurisdiction.

16.10.520 Shorelines of statewide significance.

“Shorelines of statewide significance” means those *shorelines* described in RCW [90.58.030\(2\)\(e\)](#) which are within the City of Kenmore. [The Lake Washington shoreline is Kenmore’s only “shoreline of statewide significance.”](#)

16.10.530 Shorelines of the State.

“Shorelines of the State” means the total of all *shorelines* and *shorelines of statewide significance* within the City of Kenmore.

16.10.540 Sign.

“Sign” means any letters, figures, design, symbol, light, structure, billboard, trademark or device intended or used to attract attention to any activity, service, place, subject, person, firm, corporation, public performance, article, machine, merchandise or thing. Excluded from definition and regulation by this title are official traffic signs or signals, official public notices, signs required by law, warning signs, the flag of a government or noncommercial institution such as schools and temporary signs worn or carried by people.

16.10.550 Significant vegetation removal.

"Significant vegetation removal" means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, burning, chemical means, or other activity that causes significant adverse ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

16.10.560 Solid waste.

"Solid waste" means all putrescible and nonputrescible solid and semisolid wastes including but not limited to garbage, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof and discarded commodities.

16.10.570 Substantial development.

"Substantial development" means any *development* which requires a shoreline management substantial development permit, as defined in RCW [90.58.030\(3\)\(e\)](#) as now or hereafter amended.

16.10.580 Utilities and utility facilities.

"Utilities" means all lines and facilities related to the distribution, collection, transmission or disposal of water, storm and sanitary sewage, oil, gas, power or refuse. Utility facilities include telephone exchanges, water pumping or treatment stations or distribution systems, electrical substations, water storage reservoirs or tanks, municipal groundwater well fields, natural gas gate stations and limiting stations, propane/compressed natural gas/liquefied natural gas storage tanks serving multiple lots or uses from which fuel is distributed directly to individual users, electrical wires and associated structural supports, private and public stormwater management facilities, nonregional stormwater management facility, and vector waste receiving facility.

16.10.575 Water access structure.

"Water access structure" means a pier, dock, buoy, float, boat launch, watercraft lift, or other improvement that facilitates physical access to the water.

16.10.590 Water-dependent use.

“Water-dependent use” or “water-dependent development” means a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

16.10.6100 Water-enjoyment use.

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

16.10.62010 Water-oriented use.

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

16.10.6020 Water-related use.

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

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

16.10.630 Water transmission pipeline.

“Water transmission pipeline” means a facility having as its primary purpose the transmission of water by a municipal purveyor for sale for domestic, commercial, and industrial use.

16.10.640 Wetlands.

“Wetlands” means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes,

bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

Chapter 16.15

SHORELINE ENVIRONMENT DESIGNATIONS

Sections:

16.15.010 Purpose.

16.15.020 Names of shoreline environment designations.

16.15.030 Limits of shoreline environment designations.

16.15.010 Purpose.

A. The purpose of *shoreline environment designations* is to differentiate between areas whose geographical, hydrological, topographical or other features imply differing objectives regarding the use and future *development* of the *shorelines of the State*.

B. Each *shoreline environment designation* represents a particular emphasis in the type of uses, type of modifications, and the density and dimensions of *development* which should occur within it. The environment designation system is designed to encourage uses in each environment which enhance or are compatible with the character of the environment while at the same time requiring reasonable standards and restrictions on *development* so that the character of the environment is not adversely impacted.

6.15.020 Names of shoreline environment designations.

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

A. Downtown Waterfront Environment.

B. Swamp Creek Commercial Environment.

C. Shoreline Residential Environment.

CD. Urban Conservancy Environment.

DE. Natural Environment.

EE. Aquatic Environment.

16.15.030 Limits of shoreline environment designations.

The *shoreline environment designations* are included on Map 1, entitled Shoreline Environment Designations Map. If there is a discrepancy between Map 1 and the criteria established in the Kenmore comprehensive plan for *shoreline environment designations*, the criteria shall constitute the official Kenmore *shoreline environment designation*. Any parcel of land included within the shoreline jurisdiction without a *shoreline environment designation* shall be considered Urban Conservancy Environment.

(INSERT NEW MAP)

Chapter 16.20

DOWNTOWN WATERFRONT ENVIRONMENT

Sections:

16.20.010 Purpose.**16.20.020 Designation criteria.****16.20.010 Purpose.**

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

16.20.020 Designation criteria.

The shoreline along the contiguous downtown waterfront that is zoned regional business **and waterfront commercial** in KMC Title 18 and does not meet the requirement for **Urban Conservancy or Shoreline Residential** other designations is to be assigned the Downtown Waterfront Environment designation.

Chapter 16.23SWAMP CREEK COMMERCIAL ENVIRONMENTSections:**16.23.010 Purpose.****16.23.020 Designation criteria.****16.23.010 Purpose.**

The purpose of the Swamp Creek Commercial Environment is to recognize existing and planned high-intensity commercial and residential uses while protecting existing *ecological functions* and restoring *ecological functions* in areas that have been previously degraded.

16.23.020 Designation criteria.

A Swamp Creek Commercial Environment designation is to be assigned to shoreline areas adjacent to the west side of Swamp Creek if any of the following characteristics apply:

A. The shoreline currently supports high-intensity commercial or high-density residential uses, and is designated in the Comprehensive Plan and zoned to remain high-intensity, and

B. The shoreline does not meet the requirement for Urban Conservancy Environment or Shoreline Residential Environment designations.

Chapter 16.25

SHORELINE RESIDENTIAL ENVIRONMENT

Sections:

16.25.010 Purpose.

16.25.020 Designation criteria.

16.25.010 Purpose.

The purpose of the Shoreline Residential Environment is to accommodate residential development and appurtenant structures. An additional purpose is to provide appropriate *public access* and recreational uses within new multifamily developments or on public property.

16.25.020 Designation criteria.

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

Chapter 16.30

URBAN CONSERVANCY ENVIRONMENT

Sections:

16.30.010 Purpose.

16.30.020 Designation criteria.

16.30.010 Purpose.

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

16.30.020 Designation criteria.

An Urban Conservancy Environment designation is assigned to shoreline areas appropriate and planned for *development* that is compatible with maintaining or restoring *ecological functions* and areas that are not generally suitable for *water-dependent uses*, if any of the following characteristics apply: Public access and public recreation objectives should be implemented whenever *feasible* and significant ecological impacts can be mitigated. This designation should be applied when:

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

B. The shoreline includes open space, *floodplain* or other sensitive areas that should not be more intensively developed;

B. The shoreline is in public ownership and has been altered or in public ownership that is small in size and not adjacent to other publicly owned properties;

C. The shoreline has been altered but retains important *ecological functions*;

D. The shoreline has potential for *ecological restoration* or is a *restoration* priority; or

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

Chapter 16.35

NATURAL ENVIRONMENT

Sections:

16.35.010 Purpose.

16.35.020 Designation criteria.

16.35.010 Purpose.

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

16.35.020 Designation criteria.

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

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

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

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

Chapter 16.40

AQUATIC ENVIRONMENT

Sections:

16.40.010 Purpose.**16.40.020 Designation criteria.****16.40.010 Purpose.**

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

16.40.020 Designation criteria.

Lake Washington and the Sammamish River below the *ordinary high-water mark* are to be designated as Aquatic Environment. In Lake Washington, the Aquatic Environment extends to the centerline of the lake.

Chapter 16.45

GENERAL SHORELINE DEVELOPMENT STANDARDS

Sections:

16.45.010 General shoreline development requirements.

16.45.010 General shoreline development requirements.

A. Kenmore shall ensure that uses and modifications within the shoreline jurisdiction do not cause a net loss of shoreline *ecological functions* and processes. Mitigation for impacts resulting in uses and modifications shall follow the mitigation sequencing requirements of KMC [18.55.210](#) and consider the priorities specified in the shoreline ~~protection and~~ restoration plan.

B. All shoreline uses and developments shall be subject to the following general development standards:

1. The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and groundwater on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
2. *Solid* and liquid *wastes* and untreated effluents shall not enter any bodies of water or be discharged onto the land.
3. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational *marinas*, commercial moorage, and vessel repair facilities.
4. The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected. The use of chemicals to control invasive aquatic weeds ~~is prohibited, except that milfoil may be removed~~

using chemicals shall be limited to herbicides; provided, that the chemicals are applied by a licensed pesticide applicator and approved for aquatic use.

5. All shoreline developments and uses shall manage increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shoreline properties and features are not adversely affected. Control measures may include, but are not limited to, permeable surfacing, dikes, catch basins, settling ponds, interceptor drains and planted buffers.

6. All shoreline developments and uses shall control erosion during project construction and operation.

7. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance of or minimize adverse impacts to protect *fish and wildlife habitats* conservation areas of importance, including, but not limited to, spawning, nesting, rearing and habitat areas, and migratory routes. Where avoidance of adverse impacts is not practicable, the director/city manager may require that mitigation measures to protect species and habitat functions be developed in consultation with State resource management agencies and federally recognized tribes.

8. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, erosion and accretion.

9. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.

10. Land clearing, *grading*, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for *development*. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.

11. All shoreline *development* shall be located, constructed and operated so as to protect public health, safety and welfare.

12. All *development* activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as *bulkheads*, other bank stabilization, landfills, levees, dikes, *groins*, *jetties* or substantial site regrades.

13. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry **by erosion from drainage, high water or other means** into any water body.

14. Navigation channels shall be kept free of hazardous or obstructing *development* or uses.

15. Historic properties, including historic buildings, sites, objects, districts and landscapes, prehistoric and historic archaeological resources, and traditional cultural places, shall be protected within *shoreline environments* as follows:

a. Known Historic Properties.

(1) Known historic properties inventoried by King County and Washington Department of Archaeology and Historic Preservation are subject to the procedures delineated in Chapter [2.20](#) KMC. Disturbance of known archaeological sites is also subject to State regulations, including Chapters [27.44](#), [27.53](#) and [68.80](#) RCW;

(2) If a known archaeological site or traditional cultural place is affected by a *development* proposal, the **directorcity manager** shall require a site inspection or evaluation by a professional archaeologist and inform and consult with the Washington State Department of Archaeology and Historic Preservation and any concerned Native American tribes. To the extent feasible, the **directorcity manager** shall coordinate county and State required permitting and compliance procedures and requirements to avoid substantial duplication of effort by permit *applicants*; and

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

b. Inadvertent Discovery.

(1) Consistent with the definitions and requirements contained in Chapters [27.44](#), [27.53](#) and [68.80](#) RCW, whenever potentially significant historic properties or archaeological

artifacts are discovered in the process of *development on shorelines*, work on that portion of the *development* site shall be stopped immediately and the find reported as soon as possible to the director/city manager and, if an archaeological site or artifacts have been discovered, the Washington State Department of Archaeology and Historic Preservation, any concerned Native American tribes and other appropriate agencies;

(2) The director/city manager shall require that a historic property assessment be conducted immediately by a professional archaeologist, ethnographer or historic preservation professional, as applicable, in consultation with State and tribal officials as appropriate, to determine the significance of the discovery and the extent of damage that may have occurred to the resource. The historic property assessment shall be provided to the director/city manager and, if an archaeological site, archaeological artifacts or a traditional cultural place have been discovered, the Washington State Department of Archaeology and Historic Preservation, and any concerned Native American tribes to determine the significance of the discovery in accordance with Chapter 27.53 RCW and Chapter 25-48 WAC; and

(3) Upon receipt of a positive determination of a property's significance, or if available information suggests that a negative determination is erroneous, the director/city manager may require that a historic property management plan be prepared by a qualified professional archaeologist or other appropriate professional if such action is reasonable and necessary to implement related program objectives.

c. Public Access to Historic Properties.

(1) If a private or publicly owned historic property is identified, *public access* shall be encouraged as appropriate for purposes of public education; provided, that:

(a) The type or level of *public access* is consistent with the long-term protection of both historic resource values and shoreline *ecological functions*; and

(b) An access management plan is developed in accordance with *development* site- and resource-specific conditions to address physical protection of the resource, hours of operation, interpretive or directional signage, lighting, pedestrian access, traffic, and parking, as appropriate, in consultation with the director/city manager and, if an archaeological site, archaeological artifacts or a traditional cultural place have been discovered, the Washington State Department of

Archaeology and Historic Preservation, any concerned Native American tribes, or other agencies, as appropriate; and

(2) For archaeological sites and traditional cultural places, approval of proposed access measures by the Washington State Department of Archaeology and Historic Preservation, any concerned Native tribes or other agencies, as appropriate, shall be required prior to provision of *public access* to a site.

16. All projects within the shoreline jurisdiction that are either publicly funded or on public land shall include improvements to shoreline *public access*.

17. Heating and cooling equipment may not be placed in waters of the State.

Chapter 16.50

SHORELINE USES

Sections:

- 16.50.010 General shoreline uses.
- 16.50.020 Interpretation of shoreline use table.
- 16.50.030 Shoreline use table and conditions.
- 16.50.040 Aquaculture.
- 16.50.050 ~~Public boat launching facilities and marinas~~ Boating facilities.
- 16.50.060 Public access.
- 16.50.070 Parks and Recreation.
- 16.50.075 Commercial and light manufacturing uses.
- 16.50.080 Utility facilities.
- 16.50.085 Transportation uses and facilities.
- 16.50.087 Parking
- 16.50.090 Residential uses.
- 16.50.100 Channel migration zone on Swamp Creek.

16.50.010 General shoreline uses.

A. All uses in the shoreline jurisdiction must comply with all City code provisions and with the Kenmore *Shoreline Master Program*. For a principal use to be permitted in the shoreline, it must be a permitted use

in the underlying zone, and must be listed as a permitted or conditional use in KMC [16.50.030](#). This section may not authorize a land use that is not allowed by the underlying zoning, but may add restrictions or conditions or prohibit specific land uses within the shoreline jurisdiction.

B. Uses not specifically addressed in this table may be permitted as conditional uses in the shoreline jurisdiction, provided the use meets the criteria for a shoreline conditional use permit **and is compatible with the underlying zoning**.

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

~~D. Uses existing as of March 30, 2012, that do not conform to these regulations may be continued subject to the provisions of this chapter.~~

16.50.020 Interpretation of shoreline use table.

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

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

1. If the letter "P" appears in the box at the intersection of the column and the row, the use may be permitted within the *shoreline environment designation* if the underlying zoning also allows the use.
2. If the letter "C" appears in the box at the intersection of the column and the row, the use may be allowed within the *shoreline environment designation* subject to the shoreline conditional use review procedures specified in Chapter [16.75](#) KMC, and only if the underlying zoning allows the use.

3. If the letter "X" appears in the box at the intersection of the column and the row, the use is prohibited in that *shoreline environment designation*. These uses may not be authorized through a conditional use, shoreline exemption, or shoreline variance.

4. If the letter "U" appears in the box at the intersection of the column and the row, the use is subject to the same review process and standards as the immediately adjacent upland *shoreline environment designation*.

45. If a number appears after the letter "P₁" or "C" or "U" in the box at the intersection of the column and the row, additional use criteria apply. The use may be permitted subject to the appropriate review process in this section only if the specific use criteria indicated with the corresponding number immediately following the table are satisfied, and only if the underlying zoning allows the use. If more than one number appears at the intersection of the column and row, both numbers apply.

5. If more than one letter-number combination appears in the box at the intersection of the column and the row, the use is allowed within that *shoreline environment* subject to different sets of limitations or criteria depending on the review process indicated by the letter, the specific development criteria indicated in the development condition with the corresponding number immediately following the table, and only if KMC Title 18 allows the use.

6. Definitions of italicized uses in the table may be found in Chapter 18.20 KMC.

16.50.030 Shoreline use table and conditions.

A. Shoreline Use Table.

Shoreline Use Table

KEY P – Permitted Use C – Shoreline Conditional Use X – Prohibited Use U – Same use allowances as in adjacent upland Environment	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
<u>Adult entertainment business</u>	P2	P2	X	X	X	X
<u>Air transportation service</u>	X	X	X	X	X	C14
<u>Ambulatory surgery center</u>	X	X	X	X	X	X
<u>Animal kennel/shelter</u>	X	X	X	X	X	X
<u>Recreational/cultural/Arts, entertainment, indoor</u>	P25	P2	P6X	P62,18	P7X	C5X
<u>Arts, entertainment, outdoor</u>	P2	P2	X	P2	P6	X
<u>Auction house</u>	X	X	X	X	X	X
<u>Automotive sales and service, marine</u>	P2	P2	X	X	X	U3
<u>Automotive sales and service, non-marine</u>	X	X	X	X	X	X
<u>Business service, intensive</u>	X	X	X	X	X	X
<u>Business services, standard</u>	P2, X2	P2	X	P2, 3, X2	X	C2X
<u>Cemetery, columbarium or mausoleum</u>	X	X	X	X	X	X
<u>College/university</u>	P3	P3	P3	P3	X	U
<u>Community residential facility</u>	P2	P2	P	X	X	X
<u>Construction and trade</u>	X	X	X	X	X	X
<u>Day-care</u>	P2	P2	X	X	X	X
<u>Eating and drinking place</u>	P2	P2	X	P2,18	X	X

Shoreline Use Table

KEY	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
P – Permitted Use						
C – Shoreline Conditional Use						
X – Prohibited Use						
U – Same use allowances as in adjacent upland Environment						
<i>Educational service</i>	P2	P2	P2	P2	X	X
<i>Family child-care home</i>	X	X	P	X	C	X
<i>Golf course</i>	X		X	C	X	X
<i>Government services</i> <i>Fire or police facility</i>	P43	P3	P43	PC43	P4X	C4U
<i>Funeral home/crematory</i>	X	X	X	X	X	X
<i>Health care and social assistance</i>	P2,15	P2,15	X	P2,15	X	X
<i>Hospital</i>	X	X	X	X	X	X
<i>Laboratory</i>	P2	P2	X	X	X	X
<i>Manufacturing, uses heavy</i>	P2X	X	X	X	X	X
<i>Manufacturing, light</i>	P2	P2	X	X	X	X
<i>Marijuana business</i>	P2	P2	X	X	X	X
<i>Marijuana cooperative</i>	X	X	X	X	X	X
<i>Marina (recreational boat moorage)</i>	P8		X	P	X	P
<i>Mobile food service</i>	P2	P2	X	P2	X	P43
<i>Mobile home park</i> <i>Manufactured housing community</i>	X	X	C16	X	X	X
<i>Multiple-family dwelling, multiple-family. See also KMC Section 16.50.090.</i>	P2	P2	P	P2	X	X

Shoreline Use Table

KEY	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
P – Permitted Use						
C – Shoreline Conditional Use						
X – Prohibited Use						
U – Same use allowances as in adjacent upland Environment						
Office	P2	P2	X	P2	X	X
Park. See also KMC Section 16.50.070.	P4	P4	P5	P5	P6	P3
General services	P2, X2		X	P2, 3, X2	X	C2
Personal service	P2	P2	X	P2	X	X
Principal use parking	X		X	X	X	X
Public boat launch	P		X	P, C9	X	P
Recreational facility, indoor	P2	P2	X	P2	X	X
Recreational facility, outdoor. See also KMC Sections 16.50.050, 16.50.070, and 16.55.050.	P4,17	P4,17	P5,17	P5,17	P6	P3,4
Regional land use, except for airport, ferry terminal, and highway and street, which are described below. See also KMC Section 16.50.085.	C7	C7	X	X	X	C3
Airport/heliport or helistop	C, X1714	X	X	X	X	C, X1714
Ferry terminal	C	X	X	X	X	C
Highway and street, except for in-water uses	C4110	C10	C4110	C4110,12	C4110,12	C4112
In-water and overwater highway and street facilities	X		C11, 14	C11, 14	C11, 14	C11, 14

Shoreline Use Table

KEY	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
P – Permitted Use C – Shoreline Conditional Use X – Prohibited Use U – Same use allowances as in adjacent upland Environment						
Expanded highway and street	P18		P18	P18	C18	C18
Wastewater treatment facility and municipal water production, except for in-water uses	C8, 12		C8, 12	X	X	X
In-water wastewater treatment facility, in-water municipal water production facility	X		C12	C12	C12	C12
Regional stormwater management facilities	P13		P13	P13	P13	X
Religious institution	P2	P2	X	X	X	X
Mining Resource land use, except for aquaculture, which is described below:	X	X	X	X	X	X
Aquaculture uses. See also KMC Section 16.50.040.	X	X	X	X	X	C1
In-water fish and wildlife management, except aquaculture	X		C	C	C	C
Retail sales	P2, X2	P2	X	P2, 3, X218	X	C2X
Retail sales, bulk	X	P2	X	X	X	X
Secure facility	X	X	X	X	X	X
Signs	P15		P15	P15	P15	P15

Shoreline Use Table

KEY	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
P – Permitted Use C – Shoreline Conditional Use X – Prohibited Use U – Same use allowances as in adjacent upland Environment						
<i>Single detached dwelling units, single detached. See also KMC 16.50.090.</i>	X	X	P	P	C	P910
<i>Commuter Standalone parking. See also KMC Section 16.50.087.</i>	C4613	X	X	X	X	X
<i>Group residences Supportive living facility</i>	P2	P2	P	PX	CX	X
<i>Temporary lodging</i>	P2	P2	X	X	X	X
<i>Transportation. See also KMC Section 16.50.085.</i>	C2	C2	X	X	X	X
<i>Utility facility, except for in-water uses. See also KMC Section 16.50.080.</i>	P1311	P11	P1311	P1311	P1311	XP3,11
<i>In-water utility facilities</i>	X		C13	C13	C13	C13
<i>Vehicle or equipment rental</i>	P3,18	X	X	P3,18	X	P3,18
<i>Vehicle refueling station</i>	P2	P2	X	X	X	C3
<i>Warehousing</i>	X	X	X	X	X	X
<i>Wholesale trade</i>	P2	P2	X	X	X	X
	Aquaculture					
	Commercial Development					
	Government Services					

Shoreline Use Table

KEY P – Permitted Use C – Shoreline Conditional Use X – Prohibited Use U – Same use allowances as in adjacent upland Environment	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
	Manufacturing					
	Park/Recreation					
	Residential Development					
Accessory uses	P		P	P	C	X
	Regional Land Uses					
	Utilities					
	In-Water Structural Uses					
	Signs					

B. Shoreline Use Criteria (Footnotes to Shoreline Use Table in Subsection A of This Section).

1. *Aquaculture* may be allowed only in Lake Washington and only under the following conditions:

- a. *Aquaculture* operations are located at least 500 feet from the Shoreline Residential and Downtown Waterfront Environments.
- b. *Aquaculture* operations waterward of the Natural Environment and Urban Conservancy Environment are limited to activities that do not require structures, facilities or mechanized harvest practices.

2. *Water-dependent* and *water-related* commercial and manufacturing uses shall be permitted. *Public access* improvements consistent with this chapter are required for all commercial and manufacturing uses, unless precluded by public safety considerations. Non-*water-dependent* and non-*water-related* residential, commercial, and manufacturing uses shall be permitted only if the use meets the standards of subsections (a), (b), (c) and (d) below:

a. The development is:

(1) Part of a mixed use development that includes a *water-dependent use* and in which at least 50 percent of the land area within the shoreline jurisdiction on the project site is in a *water-dependent use* or *water-related use* (including uses accessory to a *water-dependent use* that are fully incidental and subordinate to the *water-dependent use*), dedicated *public access*, or substantial shoreline habitat enhancement consistent with KMC [16.60.010](#); or

(2) A new or expanding development in a commercial zone along the Swamp Creek shoreline north of Northeast Bothell Way, where the existing development does not conform with current stream buffer provisions of the Kenmore SMPKMC Chapter 18.55 and where the proposed development would substantially increase the width and enhance the habitat quality of the buffer along Swamp Creek; or

(3) on a site physically separated from the shoreline by another property or public right of way; or

(4) at a shoreline location where navigability is severely limited and the use provides a significant public benefit per "c" below.

b. The *non-water-oriented uses* are located on land unless otherwise authorized in 16.50.075; and

c. The development provides a significant public benefit to help achieve any of the following shoreline element goals:

(1) Economic development for uses that are *water-dependent*;

(2) *Public access*;

(3) *Water-oriented* recreation;

(4) Multimodal, *water-dependent* transportation circulation;

(5) Conservation or *restoration of critical areas*, scenic vistas, or fish and wildlife habitat;
or

(6) Preservation of historic properties;

d. The development does not include the following uses, which are prohibited in the shoreline: funeral home/crematory; veterinary clinic; cemetery/columbarium/mausoleum; automotive repair; automotive services; stable/kennel/cattery; hospital; outdoor advertising service; miscellaneous equipment rental; automotive rental and leasing; gasoline service stations; fuel dealers; auction houses; livestock sales; amusement park; drive-in theater; public agency or utility yard; and propane/compressed natural gas/liquefied natural gas storage tanks serving multiple lots or uses from which fuel is distributed directly to individual users.

3. New commercial uses may be permitted only if allowed in the underlying zoning, and if *public access* is provided and the project includes ecological enhancement consistent with KMC 16.60.010. Existing non-*water-dependent* commercial uses may be expanded, provided the expansion complies with all development standards and the project includes ecological enhancement consistent with KMC 16.60.010.

43. Only the *water-dependent* portion of the use shall be allowed in the *shoreline environment*, except as provided in this section for utility uses.

54. In the Downtown Waterfront and AquaticSwamp Creek Commercial Environments, *water-oriented* recreational uses including parks and *public access* trails and facilities may be allowed together with accessory recreation facilities that provide water enjoyment for substantial numbers of persons.; provided, that in the Downtown Waterfront minor non-water-oriented accessory uses such as children's play equipment, picnic tables, or outdoor exercise course equipment may also be allowed if they meet the other requirements of this chapter. All other recreational uses shall be prohibited.

65. In Urban Conservancy and Shoreline Residential Environments, parks, and trails and boating facilities shall be allowed. Golf course shall be a conditional use in the Urban Conservancy Environment. All other recreational uses shall be prohibited.

~~76.~~ In the Natural Environment, *water-oriented* passive and low-impact ~~recreational uses, including public access trails,~~ shall be allowed. All other ~~outdoor arts, entertainment or~~ recreational uses shall be prohibited.

~~87.~~ Wastewater treatment facilities, and municipal water production uses, except for in-water uses, shall be allowed only on Lake Washington *shorelines*. ~~The listed wastewater treatment facilities, municipal water production facilities, and marinas and~~ are prohibited on *shorelines* of the Sammamish River and Swamp Creek.

~~98.~~ A boat launch that accommodates motorized vehicles for launching vessels is a conditional use in the Urban Conservancy Environment. ~~Facilities for hand launching of nonmotorized vessels may be allowed as permitted uses.~~

~~109.~~ New overwater residences, ~~including floating homes,~~ are prohibited except for *live-aboards*. They may be allowed; provided, that:

- a. They are for single-family use only;
- b. They are located in a *marina* that provides shower and toilet facilities on land and there are no sewage discharges to the water;
- c. *Live-aboards* do not exceed 10 percent of the total slips in the *marina*;
- d. They are owner-occupied vessels; and
- e. There are on-shore support services in proximity to the *live-aboards*.

~~110.~~ New highway and street construction is allowed only if:

- a. There is no *feasible* alternate location;
- b. Pedestrian, bicycle and public transport needs are addressed; and
- c. When located in the Natural Environment, the use is low-intensity transportation infrastructure; ~~parking facilities are prohibited in the Natural Environment unless supporting a water-dependent use.~~

~~12.~~ ~~The water-dependent and in-water portions of wastewater treatment and municipal water production facilities may be allowed as a conditional use.~~

4311. Utility facilities may be located within the shoreline jurisdiction if there is no *feasible* alternate location, the alternative would result in unreasonable and disproportionate cost, or the facility is necessary to serve adjacent shoreline uses. In no case are propane/compressed natural gas/liquefied natural gas storage tanks serving multiple lots or uses from which fuel is distributed directly to individual users permitted.

4412. Highway and street infrastructure that must be located in water or over water, such as bridges and bridge supports, may be permitted; provided, that the priorities of the Kenmore shoreline *restoration* plan are considered in designing mitigation for impacts from the project.

15. Signs may be permitted subject to the provisions of the underlying zoning and provided:

a. Signs shall not be erected nor painted on trees, rocks or other natural features.

b. Glare from artificial lighting of signs shall be shielded or directed away from adjacent properties and the water.

c. Signs waterward of the ordinary high water mark adjacent to the Downtown Waterfront Environment shall be permitted only to the extent necessary for the operation of a permitted water-dependent use, provided no such sign shall be larger than five square feet.

d. In the Shoreline Residential, Urban Conservancy and Natural Environments, signs are not allowed except for signs of not more than five square feet within public parks or trails.

e. Signs to protect public safety or prevent trespass may be allowed and should be limited in size and number to the maximum extent practical.

4613. Commuter parking may only, and only be allowed if it is designed to serve a passenger ferry system.

4714. Helistops and heliports are prohibited in all environments.

15. Veterinary clinics are prohibited in the shoreline environment.

16. Except for manufactured housing communities existing as of insert effective date of ordinance, which are permitted outright.

17. Marinas are prohibited on shorelines of the Sammamish River and Swamp Creek.

18. Only when accessory to a park or recreational facility and related to water access for the public.

C. Accessory Uses.

1. Any principal use permitted in a specific shoreline environment either outright or as a special use or conditional use shall also be permitted as an accessory use outright or as a conditional use.

21. Uses Conditional or prohibited as principal uses but customarily incidental to a use permitted in a shoreline environment may be permitted as accessory uses only if clearly incidental and necessary for the operation of a permitted principal use unless expressly permitted or prohibited as accessory uses. Examples of accessory uses include parking, offices, and outdoor storage areas. For purposes of this section, landfill, water-based airports, air transportation service, heliports and helistops shall not be considered to be accessory to a principal use and shall only be permitted as provided in the applicable shoreline environment.

32. Unless specifically stated otherwise in the regulations for the applicable environment, accessory uses that are non-water-dependent and non-water-related, even if accessory to water-dependent or water-related uses, shall not be permitted over water according to subsection A of this section only unless either:

- a. The over-water location is necessary for the operation of the water-dependent or water-related use; or
- b. The lot has a depth of less than 50 feet of dry land.

43. Accessory P parking shall not be permitted over water unless it is accessory to a water-dependent or water-related use located on a lot with a depth of less than 50 feet of dry land and the director/city manager determines that adequate on-site or off-site dry land parking within 800 feet is not reasonably available.

54. Piers, floats, pilings, breakwaters, drydocks and similar accessory structures for moorage shall be permitted as accessory to permitted uses subject to the development standards unless specifically prohibited in the applicable shoreline environment.

65. Accessory uses shall be located on the same lot as the principal use; provided, that when the accessory use is also permitted as a principal use in the shoreline environment applicable to an adjacent lot, the accessory use may be located on that adjacent lot.

6. KMC Section 16.50.090 contains additional standards for residential *accessory uses*.

D. Outdoor Storage.

Outdoor storage is allowed only in the Downtown Waterfront Environment and is prohibited in all other environments. Such use shall be accessory to a permitted *water-dependent use*, shall be at least 20 feet from the *ordinary high-water mark* and shall meet the following standards:

1. Storage shall not be permitted in required setbacks and shall not be located between the building(s) and the primary street.

2. Storage shall be screened from view from the public right-of-way and adjacent residential zones using a minimum six-foot-high solid wood fence, masonry wall, or vegetation approved by the *city manager*.

3. Storage shall be maintained in a neat, orderly and safe manner and shall not include the exterior accumulation of broken, abandoned or discarded materials, junk, trash, rubbish, or debris.

4. Outdoor storage areas shall be graded and shall meet the requirements of the City's Stormwater Pollution Prevention Manual. Outdoor storage areas may be surfaced with permeable materials if adequate drainage and erosion and dust control are provided.

5. Lighting shall be directed away from adjacent residential zones and shall be shielded as necessary to reduce impacts.

16.50.040 Aquaculture.

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

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

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

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

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

16.50.050 Public boat launching facilities and marinas Boating facilities.

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

A. The facility shall be designed and operated so that there is *no net loss of ecological function* in the shoreline. ~~Where the facility is developed in conjunction with restoration of like habitat areas, improvements in one area may be applied to mitigate impacts that would result from new facilities;~~

B. The streets serving the proposed facility must be adequate to accommodate traffic generated by such a facility safely and conveniently;

C. The facility shall provide adequate parking in accordance with underlying zoning requirements. Long-term parking areas shall be located away from the water. Short-term loading areas, however, may be located near berthing areas;

D. ~~The marina~~ All boating facilities shall be sited and designed to protect rights of navigation;

E. ~~The~~ A marina must have provisions available for cleanup of accidental spills of contaminants;

F. Lavatory facilities connected to a sanitary sewer and adequate to serve the *marina* shall be provided;

G. Self-service sewage pumpout facilities or the best available method of disposing of sewage wastes and appropriate disposal facilities for bilge wastes shall be provided at *marinas* having in excess of 3,500 lineal feet of moorage or slips large enough to accommodate boats larger than 20 feet in length, and shall be located so as to be conveniently available to all boats. An appropriate disposal facility for removal of bilge wastes shall be either a vacuum apparatus, or oil-absorbent materials and waste receptacles;

H. Untreated sewage shall not be discharged into the water at any time. Treated sewage shall not be discharged while boats are moored;

- I. *Public access* shall be provided in accordance with KMC [16.50.060](#);
- J. The design shall be compatible with adjacent development;
- K. Covered moorage may only be permitted for vessel repair facilities; and
- L. Extended moorage on waters of the State without a lease or permission is prohibited.

16.50.060 Public access.

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

A. The City adopts the following policies and plans as collectively constituting a shoreline *public access* plan for Kenmore:

- 1. Comprehensive Plan Downtown Sub-Element**
- 2. Comprehensive Plan Transportation Element**
- 3. Kenmore Parks, Recreation, and Open Space Plan**
- 4. Other plans meeting the requirements of WAC 173-26-221(4) and developed through an open public process as provided in WAC 173-26-201(3)(b)(i).**

B. Where *public access* is required, an *applicant* shall:

- 1. Seek to provide physical *public access* consistent with the shoreline *public access* plan;**

AC. Where *public access* is required, it shall:

- 1. Connect to other public and private *public access* and recreation facilities on adjacent parcels along Lake Washington and the Sammamish River *shorelines* whenever *feasible*;
- 2. Be sited to ensure public safety;

3. Be open to the general public and accessible directly from a public right-of-way or by an easement granted to the City for *public access*;

4. Enhance access and enjoyment of the shoreline and provide features in scale with the development such as, but not limited to:

- a. View points;
- b. Places to congregate in proportion to the scale of the development;
- c. Benches and picnic tables;
- d. Beach or water access for boats; and
- e. Pathways for pedestrians and bicycles.

BD. Where *public access* is required, the area dedicated and improved for *public access* shall be roughly proportional to the scale and character of the proposed development and its impacts.

CE. Where public access is required, the director/city manager shall prepare written findings demonstrating that the conditions imposed are consistent with the first consider the principles of nexus and rough proportionality, the Act and all relevant constitutional and other legal limits on regulation of private property.

DF. *Public access* improvements shall be designed to be compatible with the purpose and intent of the *shoreline environment* in which they are constructed.

E. Trails and other *public access* improvements are subject to the standards for recreational uses in KMC 16.65.020 and the vegetation management standards in KMC 16.60.020(B).

FG. The provisions of this section do not apply to the following:

1. Short plats of four or fewer lots; or
2. Where *public access* is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the *shoreline environment*; or Where physical *public access* is not feasible, opportunities for visual access or other approaches to enhance *public access* to the shoreline, shall be considered by the applicant. Alternative *public access* proposals shall be reviewed and approved by the city manager.

3. Where constitutional or other legal limitations apply.

16.50.070 Parks and Recreation.

A. *Recreational development* in all environments must meet the following standards:

1. The construction of *swimming facilities, docks, piers, moorages, buoys, floats, and launching facilities* *water access structures* waterward of the *ordinary high-water mark* shall be governed by the regulations relating to *docks, piers, moorage, buoys, floats, or launching facility* *water access structure* construction in KMC [16.55.050](#).
2. Swimming areas shall be separated from *boat launch* areas and *marinas*, to the maximum extent practical, *consistent with KMC 16.55.050.C*.
3. New or expanded swimming facilities shall only be permitted if there is an ongoing water quality testing program guided by a monitoring plan approved by the *director* *city manager* to ensure public safety.
4. *Public access* trails within the shoreline shall be regulated by the provisions of KMC [16.50.060](#) and [Chapter 18.55 KMC](#).

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

1. Vehicular access, parking and restrooms should be located outside the shoreline jurisdiction; if infeasible to locate outside of the shoreline jurisdiction, such facilities shall be located as far from the shoreline as is *feasible*;
2. Trails should be designed primarily for pedestrian access, including access by wheelchair where appropriate, and should be no *larger* *wider* than is necessary to accommodate expected pedestrian traffic;
3. Removal of *native* vegetation for recreational uses shall be the minimum necessary to provide pedestrian access and limited visual access to the shoreline;
4. Public contact with unique and fragile areas shall be permitted where possible without destroying the natural character of the area; and

5. Viewing, studying, and recording water and nature may be accommodated by platforms, benches or shelters, consistent with public safety and security.

16.50.075 Commercial and light manufacturing uses.

A. Water-dependent and water-related commercial and light manufacturing uses are permitted subject to the applicable requirements and conditions of KMC 16.50.030.A and B.

B. Non-water-dependent and non-water-related uses may be allowed if incorporated with water-dependent uses, if the site is separated from the shoreline, in areas of limited navigability, or if the proposed development provides public access, a significant ecological benefit, or another specified public benefit. (See KMC 16.50.030.B.2.)

C. Commercial or light manufacturing development proposals shall be designed or conditioned to ensure no net loss of shoreline ecological functions, and no significant adverse impact to other shoreline uses, resources and values provided for in RCW 90.58.020 such as navigation, recreation and public access.

D. Non-water-dependent commercial or light manufacturing uses should not be allowed over water except in existing structures or in the limited instances where they are accessory to and necessary in support of water-dependent uses.

16.50.080 Utility facilities.

The following standards apply to utility uses within the *shoreline environment*:

A. Stormwater and sewage outfalls may be permitted in *shoreline environments* if upland treatment and infiltration to groundwater, streams or *wetlands* is not *feasible* per WAC [173-26-020](#) and there is no long-term adverse impact on salmon spawning, rearing or migratory habitat;

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

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

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

1. Use the best available technology to protect health, safety, and the environment;

2. Be routed through sites that are already free of vegetation, such as existing roadways, or attached to existing bridges, to the greatest extent *feasible*;
3. Avoid critical aquatic habitat to the greatest extent *feasible*;
4. If crossing beneath a streambed, utilities shall be designed to avoid streambed mobilization and adverse impacts on groundwater flow, be placed in a sleeve or conduit that allows replacement without need for additional excavation, and return grades to existing or better condition that provides for normal floodwater flow; and
5. Provide mitigation for impacts to shoreline *ecological functions*.

16.50.085 Transportation uses and facilities.

A. Non-water-dependent transportation uses shall be located as far landward as possible.

EB. Transportation uses/facilities shall employ mitigation sequencing specified in Chapter 18.55 KMC to avoid and mitigate for impacts to *critical areas*.

BC. Bridges, when necessary, should span open water and *floodways*.

CD. Roadways and bridges should be designed to avoid placement of *fill* or structures that would restrict *floodplain* capacity or limit channel migration. If transportation facilities are anticipated to impact floodplains or channel migration zones, mitigation sequencing as specified in Chapter 18.55 KMC shall be employed to avoid and mitigate for impacts.

DE. Construction of private bridges should be minimized, and shared access should be required whenever *feasible*, including when subdivision would create new lots requiring access by bridge.

F. Expansion of existing highways and streets in the shoreline jurisdiction shall be permitted only if the following criteria are met:

1. The expansion is included in the Transportation Element of the Comprehensive Plan, Neighborhood Transportation Plan, Transportation Improvement Program, ADA Compliance Plan, or Target Zero strategy implementation.
2. The expansion does not require acquisition of private property that was unanticipated in the plans under a., above.

3. The expansion is located within existing rights-of-way or other City-managed land.

4. Alteration and/or fill is the minimum necessary to construct such facilities to meet established safety standards and all applicable SMP standards can be met.

5. Disturbed areas are restored immediately after the use of construction equipment.

If these criteria cannot be satisfied, expansion may only be permitted after approval of a conditional use permit.

F. Lighting from parking areas shall be screened from illuminating fish and wildlife habitat areas and their buffers; provided, that lighting necessary for safe operation of a permitted *water-dependent use* may be allowed, but should be screened to the extent possible from illuminating fish and wildlife habitat areas and their buffers.

16.50.087 Parking

A. Parking facilities in shoreline jurisdiction are not a preferred use and shall be allowed only as necessary to support an authorized use. Parking is prohibited in the Natural Environment unless it supports a *water-dependent use* and complies with subsections B, C and D of this section.

B. In all *shoreline environment designations*, parking should be located outside the shoreline jurisdiction; if infeasible to locate outside of the shoreline jurisdiction, such facilities shall be located as far from the shoreline as is *feasible* unless there are overriding needs for safe ADA (Americans with Disabilities Act) access.

C. Plan, locate and design proposed parking facilities where routes will have the least possible adverse effect on unique or fragile shoreline features and will not result in a net loss of shoreline *ecological functions* or adversely impact existing or planned *water-dependent uses*.

D. Lighting from parking areas shall be screened from illuminating fish and wildlife habitat areas and their buffers; provided, that lighting necessary for safe operation of a permitted *water-dependent use* may be allowed, but should be screened to the extent possible from illuminating fish and wildlife habitat areas and their buffers.

16.50.090 Residential uses.

A. *Public access* to the shoreline shall be required for the following residential developments:

1. Multiple-family dwelling unit developments, including mixed use developments that contain multiple-family dwelling units; and
2. New subdivisions of more than four lots.

B. Residential *accessory uses* must meet the following standards:

1. Non-water-dependent *accessory structures* other than below-grade swimming pools shall be limited to a 150-square-foot footprint.
2. Below-grade swimming pools shall be sited and designed so that they do not adversely affect the flow of groundwater or endanger unstable slopes.
3. *Accessory structures* shall be sited to preserve visual access to the shoreline from adjacent properties and public rights-of-way to the maximum extent practical.
4. Non-water-dependent *accessory structures* and facilities such as sheds, gazebos, swimming pools, and driveways shall not be located in vegetation conservation areas described in Chapter 16.60 KMC.
5. Foot ramps, stairs, and paths to provide pedestrian access to a dock, pier, boat launch, or beach may be allowed in the vegetation conservation areas described in Chapter 16.60 KMC, but shall be limited to the minimum necessary a maximum width of 5' and shall avoid native vegetation removal to the maximum extent practicable to provide pedestrian access.
6. Private boat ramps serving a single residence shall not be located in vegetation conservation areas described in Chapter 16.60 KMC.

16.50.100 Channel migration zone on Swamp Creek.

A. Unless a site-specific study by a qualified professional concludes otherwise, ~~the~~ *channel migration zone* shall include:

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

B. Within the *channel migration zone*:

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

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

Chapter 16.55

SHORELINE MODIFICATIONS

Sections:

- 16.55.010** General shoreline modifications.
- 16.55.020** Interpretation of shoreline modifications table.
- 16.55.030** Shoreline modifications table and conditions.
- 16.55.040** Shoreline stabilization.
- 16.55.050** Water access structures ~~Docks, piers, moorage, buoys, floats or launching facilities.~~
- 16.55.060** Grading, dredging, dredge material disposal and filling.

16.55.010 General shoreline modifications.

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

16.55.020 Interpretation of shoreline modifications table.

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

A. If the letter “P” appears in the box at the intersection of the column and the row, the modification may be allowed within the *shoreline environment* only if the underlying zoning allows the modification.

B. If the letter “C” appears in the box at the intersection of the column and the row, the modification may be allowed within the *shoreline environment* subject to the shoreline conditional use review procedures specified in Chapter [16.75](#) KMC, and only if the underlying zoning allows the modification.

C. If the letter “U” appears in the box at the intersection of the column and the row, the modification is subject to the same review process and standards as in the immediately adjacent upland *shoreline environment designation*.

D. If a number appears in the box at the intersection of the column and the row, the modification may be allowed subject to the appropriate review process indicated in this section, the specific development conditions indicated with the corresponding number immediately following the table, and only if the underlying zoning allows the modification. If more than one number appears at the intersection of the column and row, both numbers apply.

E. If more than one letter-number combination appears in the box at the intersection of the column and the row, the modification is allowed within that *shoreline environment* subject to different sets of limitations or conditions depending on the review process indicated by the letter, the specific development conditions indicated in the development condition with the corresponding number in KMC [16.55.030\(B\)](#), and only if the underlying zoning allows the modification.

E. If the letter "X" appears in the box at the intersection of the column and the row, the modification is prohibited in that *shoreline environment*.

F. If "NA" appears in the box at the intersection of the column and the row, the modification is not applicable in that *shoreline environment*.

G. For purposes of interpreting the modifications table, "upland" means that the use or activity is landward of the shoreline waterbody's *ordinary high-water mark*.

16.55.030 Shoreline modifications table and conditions.

A. Shoreline Modifications Table.

Shoreline Modifications Table

KEY	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
P – Permitted Modification C – Shoreline Conditional Use Required X – Prohibited Modification U – Same modification allowances as in adjacent upland Environment NA – Not applicable Shoreline modifications are allowed only if the underlying zoning allows the modification						
Shoreline stabilization. See also KMC Section 16.55.040.						
Shoreline stabilization, not including flood protection facilities	P1	P1	P1	C1	C1	C1, P1
Repair or maintenance of shoreline stabilization facilities	P2	P2	P2	P2	P2	P2
Flood protection facilities	P3	P3	P3	P3	C3	P3
Piers and docks Water access structures ⁴ . See also KMC Section 16.55.050.						
Decks, piers, moorage, buoys, floats or launching facilities	P4		P4	C4	C4	C4, P4
Boat launch – Soft-surface	P	X	X	C	X	U
Boat launch – Residential (including community), Hard-surface	C	X	X	X	X	U
Boat launch, Public or Commercial, Hard-surface	P	X	X	P	X	U
Dock or pier – Residential (including community)	P	X	P	C	X	U

Shoreline Modifications Table

KEY	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
P – Permitted Modification						
C – Shoreline Conditional Use Required						
X – Prohibited Modification						
U – Same modification allowances as in adjacent upland Environment						
NA – Not applicable						
Shoreline modifications are allowed only if the underlying zoning allows the modification						
<u>Dock or pier – Public</u>	P	X	P	P	C	U
<u>Dock or pier– Commercial</u>	P	X	X	X	X	U
<u>Floatplane lifts</u>	C9	X	C	C	X	U
<u>Watercraft lifts (including jet ski lifts)</u>	P	X	P	X	X	U
<u>Other floats and moorage buoys</u>	P	X	P	P	P8	U
<u>Repair or replacement of existing water access structures</u>	P	P	P	P	P	P
Fill. See also KMC Section 16.55.060.						
<u>Filling Upland outside of floodplain</u>	P5, C5	P	P5, C5	P5, C5	C5	C5NA
<u>Upland inside of floodplain</u>	P	C	C	C	C	NA
<u>Waterward of the ordinary high-water mark, restoration</u>	NA	P	P	P	P	P
<u>Waterward of the ordinary high-water mark, non-restoration</u>	NA	C	C	C	C	C
Breakwaters, jetties, groins, and weirs						
<u>Breakwaters, jetties, groins and weirs</u>	C65	C5	C65	C65	C65	C65
Grading and dredging. See also KMC Section 16.55.060.						
<u>Grading, dredging, dredge material disposal</u>	P5, C5		P5, C5	P5, C5	C5	C5
<u>Dredging</u>	NA	P	P	P	P	P
<u>Grading</u>	P	P	P	P7	C	NA

Shoreline Modifications Table

KEY	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
P – Permitted Modification						
C – Shoreline Conditional Use Required						
X – Prohibited Modification						
U – Same modification allowances as in adjacent upland						
Environment						
NA – Not applicable						
Shoreline modifications are allowed only if the underlying zoning allows the modification						
Disposal waterward of the ordinary high-water mark	NA	X	X	X	X	P
Upland disposal outside of floodplain or channel migration zone	P	P	P	P	C	NA
Upland disposal inside of floodplain or channel migration zone	C	C	C	C	C	NA
Shoreline habitat and natural systems enhancement projects						
Habitat and natural systems enhancement projects	P76	P6	P76	P76	P76	P76

B. Development Conditions (Footnotes for the Shoreline Modifications Table in Subsection A of this Section).

1. *Shoreline stabilization*, including *bulkheads*, shall be permitted only when it has been demonstrated that stabilization is necessary to protect existing legally established primary structures, public improvements, proposed or existing *water-dependent* development, or projects for the *restoration* of *ecological functions* or hazardous substance remediation, and must meet the standards in KMC [16.55.040](#). In the Aquatic Environment, stabilization requires conditional use approval, unless located adjacent to a Downtown Waterfront or Shoreline Residential Environment.
2. An existing *shoreline stabilization* structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, **tidal action**, or waves. Normal maintenance and repair is allowed; provided, that all work is conducted in a manner that does not cause a net loss of *ecological functions*.

3. Flood protection facilities must be consistent with the standards in Chapter 16.90 KMC, Flood Damage Prevention, Chapter 18.55 KMC, and the Integrated Stream Protection Guidelines (Washington Departments of Fish and Wildlife, Ecology, and Transportation, 2003).
4. Water access structures ~~Docks, piers, moorage, buoys, floats or launching facilities~~ shall meet the standards in KMC 16.55.050 and are allowed only for:
- a. *Water-dependent uses*;
 - b. *Public access*;
 - c. Single detached residential units;
 - d. Joint use facilities for multiple-family dwelling unit developments; or
 - e. *Water-related* or *water-enjoyment* uses only as part of a mixed use development and only if auxiliary to and in support of a *water-dependent use*.

~~In the Aquatic Environment, docks, piers, moorage, buoys, floats and/or launching facilities require conditional use approval, unless located adjacent to a Downtown Waterfront or Shoreline Residential Environment. Water access structures are not allowed in Swamp Creek.~~

5. ~~Excavation, dredging and filling must meet the standards in KMC 16.55.060. Fill placed waterward of the ordinary high water mark for any use except ecological restoration or for the maintenance and repair of flood protection facilities requires a conditional use permit. Disposal of dredged material within shorelands or wetlands within the shoreline jurisdiction requires a conditional use permit.~~

65. *Breakwaters, jetties, groins* and weirs are only allowed where necessary to support *water-dependent uses, public access, approved shoreline stabilization*, or other public uses, as determined by the director/city manager. *Groins* are only allowed as part of a *restoration* project sponsored or cosponsored by a public agency that has natural resource management as a primary function.

76. Shoreline habitat and natural systems enhancement projects may include *shoreline modifications* of vegetation, removal of nonnative or invasive plants, and *shoreline stabilization*, including the installation of large woody debris, *dredging* and filling, provided the primary purpose is clearly *restoration* of the natural character and *ecological functions* of the shoreline. Mitigation actions identified through biological assessments required by the NOAA Fisheries Service and applied to

flood hazard mitigation projects may include *shoreline modifications* of vegetation, removal of nonnative or invasive plants, and *shoreline stabilization*, including the installation of large woody debris, *dredging* and filling.

7. *Grading* in the Urban Conservancy Environment is only permitted to support *public access, restoration, or water-oriented uses*. Otherwise, a conditional use permit shall be required.

8. *Floats* and moorage buoys are only permitted waterward of the Natural Environment designation in Lake Washington.

9. Except floatplane lifts associated with a regional land use such as Kenmore Air Harbor which are permitted outright.

16.55.040 Shoreline stabilization.

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

A. The applicant has demonstrated the following in order to construct new *shoreline stabilization*, including additions to, or increases in size of, existing *shoreline stabilization* measures:

1. A *geotechnical analysis* demonstrates that erosion from waves or currents is imminently threatening a primary structure, including residences and that damage is expected to occur within three years if the *shoreline stabilization* is not constructed;
2. The erosion rate exceeds that which would normally occur in a natural condition;
3. The erosion is not caused by upland conditions, such as the loss of vegetation and drainage, on the project site;
4. The proposed *shoreline stabilization* is the least hardened solution that is *feasible* to protect the structures or improvements, including consideration of nonstructural alternatives such as slope drainage systems, vegetative growth stabilization, and gravel *berms*;
5. The proposal is the minimum necessary to protect existing legally established primary structures, new non-*water-dependent* development, existing *water-dependent* development or projects for the *restoration of ecological functions* or hazardous substance remediation;
6. The proposed *shoreline stabilization* does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions; and

7. Adequate mitigation measures that maintain existing shoreline processes and critical fish and wildlife habitat will be provided that ensure *no net loss* or function of riparian habitat.

B. *Shoreline stabilization* to replace existing *shoreline stabilization* shall be placed landward of any existing *shoreline stabilization*, except that it may be placed waterward directly abutting the old structure only in cases where the existing *bulkhead* is protecting a residence that was installed/occupied prior to January 1, 1992, and removal of the old structure would result in greater impact on *ecological functions* there are overriding safety or environmental concerns.

C. *Geotechnical reports* pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for *shoreline stabilization* by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on *ecological functions*. Thus, where the *geotechnical report* confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

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

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

E. *Shoreline stabilization* shall not be used to create new lands. However, soft *shoreline stabilization* measures that provide *restoration* of shoreline *ecological functions* may be permitted waterward of the *ordinary high-water mark*.

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

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

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

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

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

16.55.050 Docks, piers, moorage, buoys, floats or launching facilitiesWater access structures.

A. AnyAll water access structures, including docks, piers, moorage, buoys, floats or launching facilities authorized by this chapter shall not interfere with navigationcomply with the following general standards.:

B1. Any dock, pier, moorage, buoy, float or launching facilitywater access structure authorized by this chapter shall not interfere with navigationbe subject to the following requirements.:

1. Docks, piers, moorage, buoys, floats or launching facilities shall not exceed the minimum size necessary to serve the use for which they are designed (see KMC 16.55.030(B)(4)).
2. Docks, piers, moorage, buoys, floats or launching facilities serving more than four single-family residences must also meet the standards in KMC 16.50.050.
3. Only joint use boat lift, dock, pier, moorage, buoys, float or launching facilities may be permitted for multiple-family dwelling unit development proposals.
4. Only one boat lift, dock, pier, moorage, buoy, float and launching facility may be permitted for each parcel developed with a single detached residential unit and only if the applicant demonstrates there is no other feasible option for shared use facilities. However, installation or retention of additional watercraft lifts beyond one, without a canopy, at a single residential use waterfront structure is allowed. A maximum of three lifts are allowed at a single residential use overwater structure. However, only two lifts can be ground-based; all other lift(s) must be floating or suspended lift(s).
5. Only joint use docks or piers are allowed on lots with less than 50 feet of waterfront except when lots abutting both sides of the subject lot already have a dock or pier.
6. The only structures permitted in the first 30 feet waterward of the ordinary high water mark are piers and ramps. All floats and ells must be at least 30 feet waterward of the ordinary high water mark.

7. No skirting is allowed on any structure.

8. Surface coverage (includes all overwater portions of the floats, ramps, and ells) shall be limited as follows:

a. Moorage facilities serving only one residential waterfront lot shall not exceed 480 square feet;

b. Moorage facilities serving two residential waterfront lots shall not exceed 700 square feet; and

c. Moorage facilities serving three or more residential waterfront lots shall not exceed 1,000 square feet.

9. To protect anadromous salmon habitat, the following shall apply:

a. Docks with configurations that do not include any or all of the following elements shall be subject to the overall length and square footage limitations of this section and no portion of the dock shall exceed four feet in width, unless allowed in this subsection;

b. Piers shall not exceed four feet wide and shall be fully grated;

c. Ramps shall not exceed three feet wide and shall be fully grated;

d. Ells are allowed only over water with depths of nine feet or greater at the landward end of the ell; ells may be up to six feet wide by 20 feet long with a two-foot-wide strip of grating down the center; or ells may be up to six feet wide by 26 feet long with grating over the entire ell;

e. Floats are allowed only over water with depths of 10 feet or greater at the landward end of the float; and floats may be up to six feet wide by 20 feet long with a two-foot-wide strip of grating down the center;

f. In no case may any moorage facility extend more than 150 feet waterward of the ordinary high water mark;

g. The first (nearest shore) piling shall be steel, four-inch piling and at least 18 feet waterward of the ordinary high water mark. Piling sets beyond the first are not required to be steel, shall be spaced at least 18 feet apart and shall not be greater than 12 inches in diameter;

h. Piles shall not be treated with pentachlorophenol, creosote, chromated copper arsenate or comparably toxic compounds. If ammoniacal copper zinc arsenate pilings are proposed, the

applicant will meet all of the best management practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers; and

i. When steel piles are installed, approved sound attenuation measures must be used.

102. Existing habitat features (e.g., large and small woody debris, substrate materials spawning gravel, etc.) shall be retained to the maximum extent practicable and new or expanded moorage facilities water access structures placed to avoid disturbance of such features. Mitigation is required where habitat features cannot be avoided or when habitat features are removed to address navigation or access requirements.

113. Invasive aquatic weeds may be removed by mechanical or manual methods, or controlled with herbicides nonchemical means only, except that milfoil may be removed using chemicals, provided, that the chemicals are applied by a licensed applicator and approved for aquatic use.

124. In order to mitigate the impacts of new or expanded commercial moorage facilities water access structures, the applicant shall develop a mitigation plan that contains one or more of the following measures as necessary to demonstrate no net loss of ecological functions: plant emergent vegetation (if site-appropriate) and a buffer of vegetation a minimum of 10 feet wide along the entire length of the lot immediately landward of the ordinary high water mark. Planting shall consist of native shrubs and trees and, when possible, emergent vegetation. At least five native trees will be included in a planting plan containing one or more evergreen trees and two or more trees that like wet roots (e.g., willow species) per every 100 lineal feet of shoreline. Such planting shall be monitored for a period of five years according to an approved monitoring plan. This subsection is not intended to prevent reasonable access through the shoreline critical area buffer to the shoreline, or to prevent recreational use of the shoreline critical area. This requirement may be waived or reduced for water-dependent transportation uses where it is demonstrated that vegetation could result in safety or navigation hazards.

a. Removal of any additional existing over-water and/or in-water structures that are not the subject of the application or are not otherwise required to be removed.

b. Planting of native vegetation along the shoreline immediately landward of the ordinary high-water mark consisting of trees and/or shrubs native to Puget Sound lowlands.

c. Removal or ecological improvement of hardened shoreline, including existing launch ramps or hard structural shoreline stabilization. Improvements may consist of softening the face and

toe of the stabilization with soil, gravel and/or cobbles and incorporating vegetation or large woody debris.

d. Removal of man-made debris or other material waterward of the ordinary high-water mark that is detrimental to ecological functions and ecosystem-wide processes.

e. Participation in an approved mitigation banking or in-lieu-fee program.

135. No private moorage or other water access structure waterward of the ordinary high-water mark, including structures attached thereto, shall be closer than 12 feet to any adjacent property line except when there is a mutual agreement of adjoining property owners. Excepted from the requirements of this section are boat lifts or portions of boat lifts that do not exceed 30 inches in height measured from the ordinary high-water mark.

156. No covered boat lift, dock, pier, covered moorage, covered float, or other covered water access structure is permitted waterward of the ordinary high-water mark, except as provided below:

a. Submerged, free-standing mechanical boat lifts associated with single detached residential *docks* or *piers* and recreational watercraft may be covered with a canopy, provided:

(1) No canopy shall be more than 25 feet in length or wider than 15 feet;

(2) No portion of the canopy shall exceed a *height* of 12 feet above the ordinary high-water mark;

(3) The canopy shall at no time have any side partly or wholly enclosed;

(4) The highest portion of the canopy shall be located below the lowest grade point on the waterward side of the existing homes on surrounding properties;

(5) Canopies shall be made out of canvas or other such nontoxic materials that allow light transmission;

~~(6) Canopies shall be of a translucent material to allow light transmission;~~

~~(76)~~ The total overwater coverage of the *piers*, *floats*, *ramps*, *ells*, and canopy for a single-family residence with a single-use moorage shall not exceed 600 square feet; and

~~(87)~~ Only one boat lift canopy per single detached residence shall be allowed.

b. Covered moorage may be provided for commercial boat repair facilities. Applicants shall submit information demonstrating that the covered area is the minimum necessary to serve the proposed use.

147. Proposals to repair or replace existing legally established moorage facilities water access structures in the existing configuration and footprint are allowed, provided the following requirements are met, as applicable:

a. Materials used for pier and dock repairs shall meet the requirements established in subsection B of this section;

b. Any decking that is replaced shall be grated with material that has at least 40 percent open space to allow for light transmission, except on sections of floats where the decking overlays a float tub;

c. Any piles that are replaced shall be the minimum diameter and at the maximum spacing feasible to support the pier or dock configuration; and

d. Pier projects which replace 75 percent or more of the pier support piles shall be reviewed as new piers which must comply with all standards in this chapter.

where the nature of the repair is not described in KMC 16.55.030 shall be considered minor repairs and are permitted, consistent with any applicable standards of this title, KMC Title 18 and any other applicable codes or regulations.

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

B. Any pier, dock, watercraft lift, or mooring buoy authorized by this chapter shall be subject to the following requirements:

Element	Overwater Structure Dimensional and Design Standards	
	Lake Washington	Sammamish River
General	<ul style="list-style-type: none"> No skirting is allowed on any structure. When steel piles are installed, approved sound attenuation measures must be used. Only one <u>dock</u> or <u>pier</u> may be permitted for each parcel developed with a single detached residential unit and only if the <u>applicant</u> demonstrates there is no other <u>feasible</u> option for shared use facilities. Only joint-use <u>docks</u> or <u>piers</u> are allowed on lots with less than 50 feet of waterfront except when lots abutting both sides of the subject lot already have a <u>dock</u> or <u>pier</u>. 	

Element	Overwater Structure Dimensional and Design Standards	
	Lake Washington	Sammamish River
	<ul style="list-style-type: none"> • Only joint use boat lifts, docks, piers, moorage buoys, floats or launching facilities may be permitted for multiple-family dwelling unit development proposals. • Docks, or piers serving boating facilities must also meet the standards in KMC 16.50.050. • All float tubs shall be fully encapsulated. • If the standards in KMC 16.55.050.B cannot be met due to a public or private navigational or ecological concern, then an alternative design in lieu of meeting these requirements may be allowed without a shoreline variance if approved by other state and federal agencies, provided any impacts are appropriately mitigated and the facility does not interfere with public use of the shoreline. 	
Maximum Area: surface coverage of over-water structures, including any ramps and floats	<ul style="list-style-type: none"> • Docks or piers shall not exceed the minimum size necessary to serve the use for which they are designed • 480 sq. ft. for single residential unit • 700 sq. ft. for joint-use facility used by 2 residential units • 1,000 sq. ft. for joint-use facility used by 3 or more residential units 	<ul style="list-style-type: none"> • Docks or piers shall not exceed the minimum size necessary to serve the use for which they are designed • 120 sq. ft. for single residential unit • 240 sq. ft. for joint-use facility used by 2 residential units • 360 sq. ft. for joint-use facility used by 3 residential units • 480 sq. ft. for joint-use facility used by 4 residential units
Maximum Width	<p><u>Residential</u></p> <ul style="list-style-type: none"> • 4 ft. for pier or dock • 4 ft. for ramp • 6 ft. for ell and float <p><u>Public or Commercial</u></p> <ul style="list-style-type: none"> • 4 ft. for main walkway. If project-specific justification of need is provided, the width may be increased to 6 ft. without a variance. • 5 ft. for perpendicular fingers or ells • 5 ft. for ramp, including railings (travel width is effectively 4 ft.) • 8 ft. for ell and float. 	<p><u>Residential</u></p> <ul style="list-style-type: none"> • 4 ft. for ramp • 6 ft. for float <p><u>Public or Commercial</u></p> <ul style="list-style-type: none"> • 5 ft. for ramp • 6 ft. for float
Maximum Length	<ul style="list-style-type: none"> • 26 ft. for ells • 20 ft. for floats 	<ul style="list-style-type: none"> • 20 ft. per float per residential unit, and laid end-to-end. The maximum length is

Element	Overwater Structure Dimensional and Design Standards	
	Lake Washington	Sammamish River
	<ul style="list-style-type: none"> In no case may any moorage facility extend more than 150 feet waterward of the ordinary high-water mark. 	<p>thus 20 ft., 40 ft., 60 ft., and 80 ft. for facilities serving 1, 2, 3 and 4 residential units, respectively. Floats may be perpendicular to shore only within existing embayments off of the main river channel.</p> <ul style="list-style-type: none"> Public or commercial docks should be no longer than 80 feet unless project-specific justification of need is provided. Ramps shall be the minimum length necessary to provide safe access to the float and to position the float so that the float and a moored boat would not ground on the substrate or disturb the substrate by boat propeller action.
Decking and Material Standards	<ul style="list-style-type: none"> Ramps and piers, including ells and perpendicular fingers, shall be fully grated. Floats shall be fully grated on all deck surfaces not underlain by float tubs, with a maximum area of float tub of 70 percent of the total float area. The number and area of float tubs shall be minimized to the amount necessary based on design and engineering considerations. 	<ul style="list-style-type: none"> Floats shall be fully grated on all deck surfaces not underlain by float tubs, with a maximum area of float tub of 70 percent of the total float area. The number and area of float tubs shall be minimized to the amount necessary based on design and engineering considerations. Ramps shall be fully grated.
	<ul style="list-style-type: none"> The grating must be either multi-directional grating with a minimum of 40% open space or rectangular grating with a minimum of 60% open space. Provide documentation to show percent of open area. 	
Location	<ul style="list-style-type: none"> The only structures permitted in the first 30 feet waterward of the ordinary high-water mark are piers and ramps. 	<ul style="list-style-type: none"> Floats shall be located no less than 5 feet and no more than 10 feet from the ordinary high-water mark measured from the landward edge of the float. To avoid interfering with river navigation and public use of the water, private moorage

Element	Overwater Structure Dimensional and Design Standards	
	Lake Washington	Sammamish River
	<ul style="list-style-type: none"> All floats and ells must be at least 30 feet waterward of the ordinary high-water mark. 	<ul style="list-style-type: none"> facilities may extend no farther waterward than one-third the width of the river in the location of the proposed structure. The city manager may allow floats to be positioned up to an additional 10 feet waterward from the ordinary high-water mark as needed to reach a sufficient boat moorage depth (greater than 3 feet). Floats shall be located as far as feasible from the mouth of any named or numbered tributary entering the Sammamish River to reduce potential conflict with migrating salmon.
Piles	<ul style="list-style-type: none"> The first (nearest shore) piling shall be steel, 4-inch-diameter or the smallest diameter necessary to serve the specific structure as demonstrated by an engineer, and at least 18 feet waterward of the ordinary high-water mark. Piling sets beyond the first are not required to be steel, shall be spaced at least 18 feet apart and shall not be greater than 12 inches in diameter unless required per project-specific engineering analysis. 	<ul style="list-style-type: none"> No more than two anchor piles shall be allowed per private moorage facility (joint-use, public or commercial facilities may have two piles per 20 feet of float length, but the number of piling for such facilities shall be the minimum number given site-specific engineering and design considerations). Anchor piles shall be the minimum size feasible given site-specific engineering and design considerations and shall not exceed 12 inches in diameter unless a larger size allows for a reduced number of piles.
Materials	<ul style="list-style-type: none"> Any paint, stain or preservative applied to components of the overwater structure must be leach-resistant, completely dried or cured prior to installation. Materials shall not be treated with pentachlorophenol, creosote, chromated copper arsenate (CCA) or comparably toxic compounds as outlined in the latest edition of the Western Wood Preservers Institute Best Management Practices for the Use of Treated Wood in Aquatic and Sensitive Areas. 	

Element	Overwater Structure Dimensional and Design Standards	
	Lake Washington	Sammamish River
	<ul style="list-style-type: none"> If ACZA-treated pilings are proposed, the <i>applicant</i> will meet all of the Best Management Practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers Institute. 	
Floatplane lifts	<ul style="list-style-type: none"> The deck of the lift shall be fully grated and shall be the minimum size necessary. <p>The following two standards do not apply to a regional land use such as Kenmore Air Harbor, but do apply to lifts associated with all other uses:</p> <ul style="list-style-type: none"> One platform lift serving a floatplane is allowed per lot. Floatplanes may not be stored in the shoreline buffer. 	<ul style="list-style-type: none"> Prohibited
Watercraft lifts	<ul style="list-style-type: none"> One free-standing or floating boatlift with a canopy is allowed per detached dwelling unit. Additional watercraft lifts, without a canopy, at a single residential use waterfront structure are allowed, not to exceed three and only two can be ground-based; all other lift(s) must be floating or suspended lift(s). 	<ul style="list-style-type: none"> One free-standing or floating boatlift with a canopy is allowed per detached dwelling unit OR 2 jet ski lifts or 1 fully grated platform lift is allowed, per detached dwelling unit Boatlifts shall be located on the waterward, upstream or downstream sides of the dock, not on the landward side of the dock.
Mooring Buoys	<ul style="list-style-type: none"> No more than one (1) mooring buoy is permitted per detached dwelling unit, in lieu of a dock or pier. Mooring buoys shall not interfere with navigation. b. The use of buoys for moorage of recreational and commercial vessels is preferred over pilings or float structures. c. Buoys shall be located and managed in a manner that minimizes impacts to aquatic habitat. d. No more than four buoys per acre of surface water are allowed. Use of helical anchors with a midline float to prevent dragging on the river or lake bottom is the preferred method to secure buoys. 	

17. Buoys shall meet the following conditions:

a. Buoys shall not impede navigation;

C. Any *boat launch* authorized by this chapter shall be subject to the following requirements:

1. Location Standards

a. *Boat launches* shall be sited so that they do not significantly damage fish and wildlife habitats and shall not occur in areas with native emergent vegetation. Removal of native upland vegetation shall be minimized to the greatest extent *feasible*.

b. *Boat launches* shall not be approved in cases when it can be reasonably foreseen that the development or use would require maintenance *dredging* during the life of the development or use.

c. *Boat launches* anticipated to be used by motorized boats shall be separated from existing designated swimming areas and other *water access structures* on adjacent properties by a minimum of 25 feet.

d. Public and commercial *boat launches* shall be located only at sites with suitable transportation access. The *applicant* must demonstrate that the streets serving the *boat launch* can safely handle traffic generated by such a facility, and that parking for vehicles and attached trailers is sufficient.

e. Public and commercial *boat launches* shall be located farther than 50 feet from the outlet of a stream, including piped streams, when *feasible*.

2. Size – The *applicant* shall demonstrate that the proposed size of the *boat launch* is the minimum width and length below the *ordinary high-water mark* necessary to safely launch the intended craft.

3. Design Standards

a. Soft-surface *boat launches* shall be constructed of gravel, vegetation-stabilized earth, or other similar natural material. When only vegetation, and not the ground surface or lake and river substrates, is modified to allow for hand-launch of nonmotorized watercraft, that modification is not considered a *boat launch* subject to these regulations.

b. Hard-surface *boat launch* designs, in order of preference, are:

(1) Open grid with minimum coverage of substrate.

(2) Seasonal ramps that can be removed and stored upland.

(3) Structures with segmented pads and flexible connections that leave space for natural substrate and can adapt to changes in shoreline profile.

4. Public or commercial *boat launches* shall provide trailer spaces, at least 10 feet by 40 feet, commensurate with projected demand.

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

16.55.060 Grading, dredging, dredge material disposal and filling.

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

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

1. When necessary to support a *water-dependent use*;
2. To provide for *public access*;
3. When necessary to mitigate conditions that endanger public safety, including flood risk reduction projects;
4. To allow for cleanup and disposal of contaminated *sediments* as part of an interagency environmental cleanup plan;
5. To allow for the disposal of dredged material considered suitable under, and conducted in accordance with, the dredged material management program of the Washington Department of Natural Resources;
6. For expansion or alteration of transportation or utility facilities currently located on the shoreline and then only upon demonstration that alternatives to *fill* are not *feasible*; or

7. As part of mitigation actions, environmental *restoration* projects and habitat enhancement projects.

B. *Grading, dredging*, and filling shall be located, designed, and constructed to protect shoreline *ecological functions* and *ecosystem-wide processes*, including channel migration, and mitigation shall employ the mitigation sequence in KMC 18.55.210.

C. *Dredging* and dredged material disposal below the *ordinary high-water mark* shall be permitted only:

1. When necessary for the operation of a *water-dependent use*;
2. When necessary to mitigate conditions that endanger public safety or fisheries resources;
3. For establishing, maintaining, expanding, relocating or reconfiguring navigation channels and basins when necessary to ensure safe and efficient accommodation of existing navigation uses when:
 - a. Significant ecological impacts are minimized;
 - b. Mitigation is provided, employing the mitigation sequence in KMC 18.55.210; and
 - c. *Dredging* is maintained to the existing authorized location, depth and width;
4. For *restoration* projects associated with implementation of the Model Toxics Control Act or the Comprehensive Environmental Response, Compensation, and Liability Act; or any enhancement or *restoration* project; or
5. For flood risk reduction projects conducted in accordance with Chapter 16.90 KMC.

D. *Dredging* is not allowed waterward of the *ordinary high-water mark* for the primary purpose of obtaining fill material.

E. Disposal of dredged material shall be done only in approved upland disposal sites and is not allowed within *critical areas* or their buffers.

F. Stockpiling of dredged material in or under water is prohibited.

G. In order to ensure that operations involving dredged material disposal and maintenance *dredging* are consistent with the *Shoreline Master Program* as required by RCW 90.58.140(1), no *dredging* may commence in any *shoreline environment* without the responsible person having first obtained either a *substantial development* permit or a statement of exemption. A statement of exemption or shoreline

permit is not required prior to emergency *dredging* needed to protect property from imminent damage by the elements if a statement of exemption or *substantial development* permit is subsequently obtained following the procedures in Chapter [16.75](#) KMC.

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

Chapter 16.60

VEGETATION CONSERVATION **IN BUFFERS**

Sections:

[16.60.010](#) **Vegetation conservation areas.**

~~[16.60.020](#) **Vegetation management within critical areas.**~~

~~[16.60.030](#) **Vegetation management within Lake Washington shoreline buffers.**~~

16.60.010 Vegetation conservation areas.

A. *Shoreline buffers* shall be considered vegetation conservation areas in which existing native vegetation is retained, except in the following circumstances:

1. The activity is part of a permitted shoreline *restoration* or enhancement project;
2. The activity is an allowed *water-dependent* or *water-enjoyment use* or modification;
3. The activity implements a *public access* or recreation maintenance plan; or
4. The vegetation removal is otherwise specifically allowed under Chapter 16.50, 16.55, or 18.55 KMC.

Vegetation clearing shall occur only in the minimum shoreline area that is necessary to support the permitted use and shall be mitigated. ~~unless removal is specifically allowed in this chapter or it can be demonstrated that another management approach would provide equal or better protection for shoreline ecological processes and functions.~~ Nonnative vegetation may be retained unless otherwise required to be replaced as part of an enhancement associated with *development* or expansion of *development* on the property.

B. The vegetation management standards established in KMC Chapter 18.55 for *critical areas* and their buffers shall apply within all *shorelines*.

CB. Retention of forest communities along stream and river channels provides shade and a source of woody debris to the aquatic habitat. ~~Only~~Native and ~~nonnative~~ trees determined by the City to be hazardous or diseased may be removed, unless authorized under subsection A of this section. Selective pruning for safety and view protection is allowed, provided pruning is conducted in a manner that minimizes harm to the health of the trees being pruned.

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

ED. Landscaping plans for *shoreline buffers* associated with shoreline *development* regulated under the shoreline code must be prepared by a ~~landscape architect or certified professional wetland scientist~~qualified professional with experience developing native lake- or riverfront landscaping plans. Landscaping plans are not required for normal maintenance, including maintenance of existing nonconforming landscaping that complies with KMC 16.75.050.

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

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

HG. When considering compensatory habitat enhancement as mitigation for impacts from new structures, such as when a reduced buffer ~~or shoreline setback~~ or a non-~~water-dependent use~~ is requested, the enhancement should:

1. ~~B~~be proportional to the degree of impact of the new structure ~~and associated alterations~~ on shoreline *ecological functions*; For example, an approved buffer or setback reduction should be compensated with an equivalent area of native vegetation enhancement, including trees along the water's edge, when *feasible*;
2. ~~and t~~Take into account the degree to which the existing buffer has already been compromised;

3. Offset changes in surface water runoff rates and water quality (such as through increased impervious area), habitat structure (such as loss or alteration of vegetation), and habitat quality (such as from lighting, noise or activities) that are a result of the project; and
4. Enhancement should focus on restoring *ecological functions* that are most critical and that have been most diminished in the Kenmore shoreline.

In approving any compensatory habitat enhancement plan, the director shall consider the changes in surface water runoff rates and water quality (such as through increased impervious area), habitat structure (such as loss or alteration of vegetation), and habitat quality (such as from lighting, noise, or activities) that the project would cause. Enhancements should generally focus on offsetting these impacts but may also focus on restoring other critical *ecological functions* in the shoreline that have been lost or diminished over time (such as placement of large woody debris in water or restoring shallow water habitat) at a sub-basin or watershed scale. The director/city manager may determine whether an enhancement that provides a broader ecological benefit may be substituted for one that would offset the impacts of an individual project.

The director/city manager may deny a request to allow intrusion into a buffer or for *development* of a non-water-dependent use if the enhancement proposed does not fully mitigate the impacts of the project or provide a sufficient broader ecological benefit.

16.60.020 Vegetation management within critical areas.

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

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

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

access a pedestrian bridge across Swamp Creek. Spur trails may be extended to the water's edge but such access areas should be limited in order to protect ecological functions of the stream buffer and wetlands.

2. When public access is being provided as a part of mixed use development allowed in the Urban Conservancy Environment under KMC 16.50.030(B)(2)(a)(2), the director may allow public access trail development within the buffer in order to link with adjacent shoreline access, provided any new trail is farther from the shoreline than the waterward extent of existing development on the site and the proposed trail plan is accompanied by a plan demonstrating that the ecological functions of the overall required buffer area on a project site would be substantially improved. [Ord. 12-0334 § 3 (Exh. 1).]

16.60.030 Vegetation management within Lake Washington shoreline buffers.

A. Vegetation removal within lake *shoreline buffers* is prohibited in the Shoreline Residential, Urban Conservancy, and Natural Shoreline Environments along Lake Washington unless the activity is part of a shoreline *restoration* or enhancement project or the vegetation removal is otherwise specifically allowed under Chapter 16.50 or 16.55 KMC.

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

Chapter 16.65

SHORELINE DENSITY AND DIMENSIONS

Sections:

16.65.010 Interpretation of shoreline density and dimensions table.

16.65.020 Shoreline density and dimensions table and development conditions.

16.65.010 Interpretation of shoreline density and dimensions table.

A. The shoreline density and dimensions table in KMC 16.65.020.A establishes the shoreline standards within each of the *shoreline environments*. The *shoreline environment* is located on the vertical column and the density and dimensions standard is located on the horizontal row of the table. **The table should be interpreted as follows:**

1. If the cell is marked with a "Z" in the box at the intersection of the column and the row, the shoreline does not impose a specific buffer requirement on that use, although the standards for the underlying zoning apply. In some cases, no standard is provided because the use is prohibited under Chapter 16.50 KMC.

21. If the cell has a number in the box at the intersection of the column and the row, that number is the density or dimension standard for that shoreline environment.

32. If the cell has a parenthetical number in the box at the intersection of the column and the row, that parenthetical number identifies specific conditions listed in KMC 16.65.020(B) that are related to the density and dimension standard for that environment.

B. The density and dimensions enumerated in this section apply to any lot within the shoreline jurisdiction. If there is a conflict between the density and dimension standards in this section and the underlying zoning regulations, the more restrictive standard shall apply.

C. For development in critical areas and critical area buffers, the applicable provisions of Chapter 18.55 KMC apply unless a specific exception is provided in the shoreline code.

1. Because Lake Washington, the Sammamish River, and Swamp Creek are all fish and wildlife habitats of importance, a habitat management plan is required for any in-water or overwater development or activity, per KMC 18.55.520.

2. Within the shoreline jurisdiction, the required acreage replacement ratios for wetlands shall be as follows:

Wetland Mitigation Ratios

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

16.65.020 Shoreline density and dimensions table and development conditions.

A. Shoreline Density and Dimensions Table.

Shoreline Density and Dimensions Table

	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
	Standards					
	Shoreline Buffers from OHWM on Lake Washington					
Residential development ¹						
Single-family	NA	NA	25 ft	115 ft	150 ft	=
Other	50 ft	NA	75 ft	115 ft	NA	
Water-oriented parks and outdoor recreational facilities	20 ft (3)	NA	25 ft (3)	75 ft (3)	150 ft (3)	=
Non-water-oriented parks and outdoor recreational facilities	50 ft (1)	NA	75 ft	100 ft	150 ft	=
Other water-oriented uses	20 ft	NA	100 ft	150 ft	150 ft	=
All other non-water-oriented uses	50 ft (1)	NA	150 ft	150 ft	150 ft	=
Water-dependent commercial development	20 ft (1)		Z	115 ft (1)	Z	0
Water-related commercial development	20 ft (1)		Z	115 ft (1)	Z	0
Non-water-dependent and non-water-related commercial development	50 ft (1)		Z	150 ft	Z	Z
Government services	20 ft (6)		20 ft (6)	20 ft (6)	20 ft (6)	0
Single-family residential development	Z		25 ft (2)	115 ft (2)	150 ft (2)	Z
Multifamily residential development	50 ft		75 ft	115 ft	Z	Z
Water-dependent and water-related manufacturing and industrial use	20 ft (1) (3)		Z	115 ft (1) (3)	Z	0
Non-water-related manufacturing and industrial use	50 ft		Z	Z	Z	Z

Shoreline Density and Dimensions Table

	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
Parks and recreation	50 ft (4)		75 ft (4)	115 ft (4)	115 ft (4)	0
Accessory surface parking	100 ft		100 ft	115 ft	150 ft	0
Utilities and regional land uses	50 ft (5)		75 ft (5)	115 ft (5)	115 ft (5)	Z
Shoreline Buffers from OHWM on the Sammamish River						
Residential development ¹	75 ft	NA	Reach ² : B1 - 150 ft B2 - 100 ft B3 - (4) B4 - 15 (6)	150 ft	150 ft	==
Water-oriented parks and outdoor recreational facilities	50 ft (3)	NA	50 ft (3)	100 ft (3)	150 ft (3)	==
Non-water-oriented parks and outdoor recreational facilities	100 ft	NA	75 ft	100 ft	150 ft	==
Other water-oriented uses	75 ft	NA	50 ft	100 ft	150 ft	==
All other non-water-oriented uses	100 ft	NA	150 ft	150 ft	150 ft	==
Shoreline Buffers from OHWM on Swamp Creek						
Residential development ¹	NA	60 ft	50 ft	150 ft	150 ft	==
Water-oriented parks and outdoor recreational facilities	NA	50 ft (3)	50 ft (3)	100 ft (3)	150 ft (3)	==
Non-water-oriented parks and outdoor recreational facilities	NA	60 ft	75 ft	100 ft	150 ft	==
Other water-oriented uses	NA	50 ft	50 ft	100 ft	150 ft	==
All other non-water-oriented uses	NA	60 ft	150 ft	150 ft	150 ft	==
Building Setback from the Shoreline Buffer						
Single-family uses All uses	15 ft (2)	15 ft (2)	2515 ft (2)	15 ft (2)	15 ft (2)	Z-

Shoreline Density and Dimensions Table

	DOWNTOWN WATERFRONT	SWAMP CREEK COMMERCIAL	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
All uses except single-family uses	15 ft		15 ft	15 ft	15 ft	Z
Building Height						
Base height	35 ft	35 ft	35 ft	35 ft	30 ft	35 ft
Additional height allowed when permitted in underlying zoning	Yes (57)	Yes (5)	Yes (57)	Yes (7)No	No	No

¹Residential development means community residential facility, family child-care home, manufactured housing community, multiple-family dwelling, single detached dwelling unit, supportive living facility, and temporary lodging.

²Sammamish River reaches are shown on Map 1, Shoreline Environment Designations.

B. Development Conditions (Footnotes to Shoreline Density and Dimensions Table in Subsection A of This Section).

1. ~~New water-dependent uses may be allowed within a shoreline buffer only if impacts are mitigated consistent with the requirements in KMC 18.55.190 through 18.55.220, 18.55.330 and 18.55.430 such that there is no net loss of shoreline ecological processes or functions.~~

1. The buffer associated with water-oriented uses may be applied to non-water-oriented uses director may allow non-water-dependent uses within the shoreline buffer along the inner harbor portion of the Downtown Waterfront area at the northeast end of Lake Washington, only if:

a. The uses are developed in conjunction with a public access promenade adjacent to the water; and

b. The uses do not interfere with public access or preclude the use of the shoreline for water-dependent uses; and

c. Mitigation is provided consistent with the requirements in KMC [18.55.190](#) through [18.55.220](#), [18.55.330](#) and [18.55.430](#) such that there is *no net loss* of shoreline ecological processes or functions.

2. Single-family residential development shall provide buffers and Building setbacks as follows:

a. On Lake Washington in Shoreline Residential areas:

(1) A minimum *shoreline buffer* of 25 feet from the *ordinary high water mark* shall be provided as a vegetation conservation area.

(2) The minimum building setback of 25 feet from the *shoreline buffer* may be reduced to five feet if vegetation in the required buffer is reestablished or enhanced, according to the standards in KMC [16.60.010](#)(GH).

b. On Lake Washington in Urban Conservancy areas:

(1) A minimum buffer of 115 feet from the *ordinary high water mark* shall be provided as a vegetation conservation area.

(2) A minimum building setback of 15 feet from the *shoreline buffer* shall be provided.

c. On Lake Washington in Natural areas:

(1) A minimum buffer of 150 feet from the *ordinary high water mark* shall be provided as a vegetation conservation area.

(2) A minimum building setback of 15 feet from the *shoreline buffer* shall be provided.

d. On all other *shorelines*, single-family development shall provide a buffer as required by the provisions of Chapter [18.55](#) KMC. Buffers may be reduced to the specified minimum setbacks in this table only if the reduced buffers are allowed by the provisions of Chapter [18.55](#) KMC.

3. Outdoor storage for *water-dependent* manufacturing and industrial uses must be at least 20 feet from the *ordinary high water mark* in the Downtown Waterfront Environment and is prohibited in all other environments.

3. Public trails in *critical areas* and shoreline and *critical area* buffers are specifically addressed in Chapter [18.55](#) KMC. In recognition of the existing conditions of current and planned City shoreline parks and public or private outdoor recreational facilities, the following standards shall guide new

development and redevelopment of *water-oriented* park and outdoor recreational facilities in buffers. For any allowed development or modification within a buffer, *applicants* shall submit a plan that addresses compliance with each of the following applicable standards and principles. The City may review and condition the project to more fully implement the principles below: *New public access* improvements shall comply with the requirements of Chapter 18.55 KMC; provided,

a. In addition to trails and *water-dependent* developments, such as *water access structures*, the following list of uses and modifications may be allowed within buffers if they support *water-oriented* parks and outdoor recreation facilities and demonstrate consistency with b through f below. This list will serve as a guide, and is not exclusive. The *city manager* has the discretion to decide if a proposed use or modification supports *water-oriented public access* and outdoor recreation, and shall consult the City's *public access* plan as identified in KMC 16.50.060.

(1) Benches, picnic tables and picnic shelters.

(2) Play and exercise equipment.

(3) Boating support improvements (e.g., boat storage, staging areas, temporary seating for events).

(4) Observation platforms.

(5) Visual and auditory art installations.

(6) Safety improvements (e.g., cameras, fencing, fire prevention).

b. that new *public access* improvements may be allowed within *critical areas*, or shoreline or *critical area* buffers, if New or expanded *water-oriented* development shall follow mitigation sequencing to protect existing riparian areas and other *critical areas*. Unavoidable impacts are shall be mitigated consistent with the requirements in KMC 18.55.190 through 18.55.220, 18.55.330 and 18.55.430 such that there is *no net loss* of shoreline ecological processes or functions, and the *public access* improvements meet the following standards:

a. In order to encourage *public access* improvements and improved shoreline habitat in the Downtown Waterfront shoreline, a *public access* trail may be located within the stream buffer required in KMC 18.55.420, when accompanied by a plan demonstrating that the ecological

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

c. To the extent *feasible*, non-water-oriented park and outdoor recreational uses and modifications should be upland of water-oriented uses and modifications.

d. If parking improvements supporting water-oriented parks and outdoor recreation facilities cannot comply with KMC 16.50.087, parking within buffers shall be limited to that necessary to provide vehicle access to boat launches, to improve existing informal parking areas, to expand existing parking, or to provide ADA parking when there are no *feasible* locations outside of shoreline jurisdiction and outside of shoreline buffers. New or improved pollution-generating impervious surfaces shall provide water quality treatment consistent with the City's adopted Surface Water Design Manual. All parking should be located as far from the ordinary high-water mark as *feasible* and any expansions should not extend closer to the shoreline waterbody.

e. New and expanded public access and recreation uses in shoreline jurisdiction shall be located to avoid and minimize intrusion into riparian areas, as well as avoid tree and shrub removal. Necessary tree removal shall be mitigated at a 3:1 ratio, with an emphasis on use of native conifers placed to maximize ecological benefits to the shoreline waterbody, and the public access improvements meet the following standards:

f. A vegetation management strategy for any allowed uses in shoreline jurisdiction shall be developed that incorporates a site-specific plan for use of integrated pest management techniques, if applicable, identifying anticipated use of fertilizers, herbicides and pesticides. The strategy shall include methods of application that ensure that these materials will not enter the water.

b. In order to allow for a waterfront promenade area along the inner harbor area of the Downtown Waterfront Environment, public access improvements may extend to the water's edge when accompanied by a plan demonstrating that the *ecological functions* of the overall required buffer area on a project site would be substantially improved.

4. The shoreline buffer for residential development in the area designated on Map 1, Shoreline Environment Designations, as Reach B-3 shall be as follows:

a. On lots with an average depth of less than 100 feet measured upland from the *ordinary high-water mark*, the buffer shall be 25 feet.

b. On lots with an average depth of greater than 100 feet measured upland from the *ordinary high-water mark*, the buffer shall be the lesser of 50 feet or 30 percent of the average lot depth.

5. Underground utilities are allowed in the *shoreline buffer*.

6. Only water-dependent government service uses are allowed and such uses may require *development* in the buffer. If, through mitigation sequencing per KMC 18.55.210, impacts to the buffer are found to be unavoidable, the buffer may be reduced, provided there is *no net loss of ecological functions*.

75. Additional *height* may be permitted in the Downtown Waterfront, Shoreline Residential and Swamp Creek Commercial environments under the following conditions:

- a. The structures would not obstruct the view of a substantial number of residences; and
- b. The structures are located in an area designated on Map 1, Shoreline Environment Designations (attached to Ord. 12-033419-0490 as Exhibit 2, and incorporated by reference), as allowing these additional *heights*; and
- c. The structure *height* complies with the allowable *height* of the underlying zone and the following additional *height* limits within the shoreline; and
- d. The additional *height* of the structures would not impair the *ecological functions* of the stream, lake, *wetland*, or the required buffer. In particular, the effects of shading and light impacts on the viability of vegetation in the buffer shall be considered when making this determination; and
- e. ~~Be~~The structures are outside of the *floodway* in effect at the time of permit application; and
- f. ~~The structures would~~ ~~Not~~ be within a *wetland* or *wetland* buffer as regulated by Chapter 18.55 KMC.

6. The *shoreline buffer* of 15 feet applies to the existing manufactured housing communities. A *shoreline buffer* of 75 feet shall apply to any proposed change of use, but may be reduced to 50 feet without a shoreline variance with implementation of (1) a buffer enhancement plan, consistent with

KMC 16.60.010.H and applicable provisions of Chapter 18.55 KMC, and (2) a public access plan, consistent with KMC 16.50.060.

Additional Height Allowances

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

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

C. Additional Shoreline Buffer Standards.

1. New water-dependent uses may be allowed within a shoreline buffer only if the use is allowed per KMC 16.50.020 and if impacts are mitigated consistent with the requirements in KMC 18.55.190 through 18.55.220, 18.55.330 and 18.55.430 Chapter 18.55 such that there is no net loss of shoreline ecological processes or functions.

2. Underground utilities are allowed in the shoreline buffer.

Chapter 16.68

SIGNS

Sections:

16.65.010 Signs in the shoreline.

16.65.010 Signs in the shoreline.

Signs may be permitted subject to the provisions of the underlying zoning and provided:

A. Signs shall not be erected nor painted on trees, rocks or other natural features.

B. Glare from artificial lighting of *signs* shall be shielded or directed away from adjacent properties and the water.

C. *Signs* waterward of the *ordinary high-water mark* adjacent to the Downtown Waterfront Environment shall be permitted only to the extent necessary for the operation of a permitted *water-dependent use*, provided no such *sign* shall be larger than five square feet.

D. In the Shoreline Residential, Urban Conservancy and Natural Environments, *signs* are not allowed except for *signs* of not more than nine square feet within public parks or trails.

E. *Signs* to protect public safety or prevent trespass may be allowed and should be limited in size and number to the maximum extent practical.

Chapter 16.70

SUBDIVISIONS

Sections:

16.70.010 Subdivisions.

16.70.010 Subdivisions.

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

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

B. Submerged land within the boundaries of any waterfront parcel shall not be used to compute lot area, lot dimensions, yards, recreation space or other similar required conditions of land subdivision or

development, except, where specifically authorized by ordinance, such lands may be used in area computations as an incentive to encourage common open space waterfront areas.

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

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

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

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

Chapter 16.75

PROCEDURES

Sections:

16.75.003 Interpretation

16.75.005 Additional administrative procedures.

16.75.010 Substantial development – Permit required – Exemption.

16.75.015 Developments not requiring shoreline permits or local reviews

16.75.020 Permits – Prerequisite to other permits.

16.75.025 Permits – Reasonable accommodation.

16.75.030 Permits – Variance.

16.75.040 Permits – Conditional use.

16.75.045 Public agency or utility maintenance plans.

16.75.050 Alteration or reconstruction of nonconforming use or development.

16.75.055 Relief from shoreline master program development standards and use regulations.

16.75.060 Permits – Combined hearing authority.

16.75.070 Permits – Approval or disapproval – Notification – Additional conditions – Limitations.

16.75.080 Appeals.

16.75.090 Rules of ~~director~~city manager.

16.75.100 Enforcement.

16.75.110 Shoreline environment redesignation.

16.75.120 Redesignation applications.

16.75.130 Redesignation initiated by motion.

16.75.140 Frequency of consideration of shoreline redesignations.

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

16.75.160 Criteria for hearing examiner review.

16.75.003 Interpretation.

The *city manager* shall make administrative interpretations of this *Shoreline Master Program* and the *Shoreline Management Act* in accordance with Chapter 18.10 KMC. The *city manager* shall consult with the Washington State Department of Ecology to ensure that any formal written interpretations are consistent with the purpose and intent of RCW Chapter 90.58 and WAC 173-26.

16.75.005 Additional administrative procedures.

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

16.75.010 Substantial development – Permit required – Exemption.

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

B. A *substantial development* permit shall be required for all proposed uses and modifications unless the proposal is specifically exempt from the definition of *substantial development* in RCW 90.58.030 and WAC 173-27-040 or is exempted by RCW 90.58.140, WAC 173-27-044 or WAC 173-27-045.

C. Any person claiming exception from the permit requirements of this chapter as a result of the exemptions described in subsection B of this section may be required to submit an application to the ~~director~~city manager for such an exemption in the manner prescribed by the ~~director~~city manager. A

person requesting an exemption shall provide a written statement of exemption for activities that are exempt from the *substantial development* permit requirement in subsection B of this section when:

1. WAC 173-27-0540 applies; or
2. The activity will occur waterward of the *ordinary high-water mark*.

D. Whether or not a written statement of exemption under WAC 173-27-050 is required, all permits and approvals issued for *development* activities within the shoreline jurisdiction shall include a record of review indicating compliance with the City of Kenmore *Shoreline Master Program*.

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

16.75.015 - Developments not requiring shoreline permits or local reviews

A. Requirements to obtain a *substantial development* permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

1. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the Department of Ecology when it conducts a remedial action under chapter 70.105D RCW.
2. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for stormwater treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system stormwater general permit.
3. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a *substantial development* permit, conditional use permit, variance, letter of exemption, or other local review.
4. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.
5. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

16.75.020 Permits – Prerequisite to other permits.

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

16.75.025 Permits – Reasonable accommodation.

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

16.75.030 Permits – Variance.

A. The director/city manager is authorized to grant a variance from the performance standards of the City of Kenmore *Shoreline Master Program* only under the conditions enumerated in WAC 173-27-170 (Review Criteria for Variance Permits) and using the procedures outlined in KMC 19.25. Shoreline variance permits are also subject to review and approval by the Washington Department of Ecology (RCW 90.58.140(10)). The purpose of a variance permit is limited to granting relief from development standards set forth in the City of Kenmore *Shoreline Master Program* where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the City of Kenmore *Shoreline Master Program* will impose unnecessary hardships on the *applicant* or thwart the policies set forth in RCW 90.58.020.

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

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

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

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

16.75.040 Permits – Conditional use.

A. The director/city manager is authorized to issue shoreline conditional use permits only under the conditions enumerated in RCW 90.58.140 and 90.58.143 and WAC 173-27-160 and using the procedures outlined in KMC 19.25. Conditional use permits are also subject to review and approval by the Washington Department of Ecology (RCW 90.58.140(10)).

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

16.75.045 Public agency or utility maintenance plans.

A. To simplify the future review of maintenance activities that are or will be ongoing in association with new or existing public parks, utilities, streets, or other public agency or utility facilities, the *city manager* may approve a 5-year maintenance plan that establishes best management practices or protocols to assure *no net loss of shoreline ecological functions*.

The maintenance plan shall contain, as applicable:

1. A description of proposed maintenance activities, including the area of disturbance and type, methods and frequency of maintenance activities;
2. Best management practices for maintenance activities;
3. A description of in-stream or in-lake habitat protection measures;
4. A description of riparian and *wetland* protection measures;
5. A description of site-appropriate water use management activities, including using less water-dependent landscaping, maximizing the efficiency of the water application system, and reducing the area irrigated;
6. A description of stormwater management practices to treat stormwater runoff to reduce both water quantity and water quality impacts;

7. A description of erosion and *sediment* control practices that prevent off-site movement of sediment from stored soils and potential surface erosion areas;
8. A description of re-vegetation or *restoration* activities following maintenance; and
9. A description of chemical and nutrient use and containment practices that demonstrate minimization of overall inputs of these contaminants, restrict the type of inputs, and develop an acceptable method of application through a comprehensive management program, such as Integrated Pest Management (IPM).
10. Specific performance standards for subsections 3 through 9 above, as applicable, and corrective actions that will be implemented if the performance standard(s) is not met.
11. Demonstration that the proposed work qualifies for a shoreline exemption and that the work complies with the City of Kenmore *Shoreline Master Program*.

16.75.050 Alteration or reconstruction of nonconforming use or development.

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

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

B. Existing legal uses as defined under KMC [18.20.965](#) are considered existing legal uses within the shoreline jurisdiction.

C. Expansion of a *nonconforming use* or structure may be approved through the provisions of KMC [16.75.040](#) when the *applicant* demonstrates the following:

1. The project would substantially reduce the impacts of the existing use or structure on shoreline *ecological functions*; and
2. The proposed expansion would not cause adverse impacts on adjacent shoreline uses.

3. For a *nonconforming structure* located on land, any waterward expansion of the structure into the required setback would be offset by removal of another *nonconforming structure* of equal or greater footprint area in the shoreline setback, and the shoreline setback area would be restored with native riparian vegetation.

D. Expansion of a nonconforming *dock or pier* may be allowed by the *director/city manager* when the *applicant* demonstrates the following:

1. The existing nonconformance results from noncompliance with the standards in KMC 16.55.050(B)(6), (B)(8), (B)(9) or (B)(15); and
2. The proposed expansion meets all other applicable standards in KMC 16.55.050; and
3. The proposed expansion would not increase the existing overwater coverage of the *dock or pier* to more than the existing condition or by above the limits established in KMC 16.55.050(B)(8), whichever is greater; and
4. The project would reduce the impacts of the existing *dock or pier* on critical fish habitat as demonstrated through the habitat management plan for the *development*; and
5. The proposed expansion would not cause adverse impacts on adjacent shoreline uses.

16.75.055 Relief from shoreline master program development standards and use regulations.

A. Purpose of section. This section incorporates statutory direction from RCW 90.58.580. In adopting RCW 90.58.580, the legislature found that *restoration of degraded shoreline conditions is important to the ecological function of our waters. However, restoration projects that shift the location of the shoreline can inadvertently create hardships for property owners, particularly in urban areas. Hardship may occur when a shoreline restoration project shifts shoreline jurisdiction into areas that had not previously been regulated under the act or shifts the location of required shoreline buffers. The intent of this section is to provide relief to property owners in such cases, while protecting the viability of shoreline restoration projects.*

B. Conditions and criteria for providing relief. The *city* may grant relief from standards and use regulations in this title when the following apply:

1. A shoreline *restoration* project causes or would cause a landward shift in the *ordinary high-water mark*, resulting in the following:
 - a. Land that had not been regulated under this title prior to construction of the *restoration* project is brought under shoreline jurisdiction; or

- b. Additional regulatory requirements apply due to a landward shift in required *shoreline buffers* or other regulations of the Kenmore SMP and this title; and
 - c. Application of this title would preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the project proponent.
2. The proposed relief meets the following criteria:
- a. The proposed relief is the minimum necessary to relieve the hardship;
 - b. After granting the proposed relief, there is net environmental benefit from the *restoration* project;
 - c. Granting the proposed relief is consistent with the objectives of the *shoreline restoration* project and consistent with the Kenmore *Shoreline Master Program* and this title; and
 - d. Where a *shoreline restoration* project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under this section.
3. The application for relief must be submitted to the Washington State Department of Ecology for written approval or disapproval. This review must occur during Ecology's normal review of a *shoreline substantial development* permit, conditional use permit, or variance. If no such permit is required, then Ecology shall conduct its review when the city provides a copy of a complete application and all supporting information necessary to conduct the review.
- a. Ecology shall provide at least twenty days notice to parties that have indicated interest to Ecology in reviewing applications for relief under this section, and post the notice on its web site.
 - b. Ecology shall act within thirty calendar days of the close of the public notice period, or within thirty days of receipt of the proposal from the city if additional public notice is not required.
 - c. A *substantial development* permit is not required on land that is brought under shoreline jurisdiction due to a *shoreline restoration* project creating a landward shift in the *ordinary high-water mark*.

16.75.060 Permits – Combined hearing authority.

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

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

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

16.75.070 Permits – Approval or disapproval – Notification – Additional conditions – Limitations.

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

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

16.75.080 Appeals.

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

B. After all local permit decisions are complete and the permit documents are amended to incorporate any resulting changes, the city manager shall mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General. Projects that require both conditional use permits and or variances shall be mailed simultaneously with any substantial development permits for the project.

1. The permit and documentation of the final local decision will be mailed together with the complete permit application; a findings and conclusions letter; a permit data form (cover sheet); and applicable SEPA documents.

2. Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one day appeal period starts with the date of filing, which is defined below:

a. For projects that only require a substantial development permit (SDP): the date that Ecology receives the city decision.

b. For a conditional use permit (CUP) or variance: the date that Ecology's decision on the CUP or variance is transmitted to the applicant and city.

c. For SDPs simultaneously mailed with a CUP or variance to Ecology: the date that Ecology's decision on the CUP or variance is transmitted to the *applicant* and the city.

BC. The effective date of the City's decision shall be the date of *receiptfiling* with the Department of Ecology as defined in RCW [90.58.140](#).

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

16.75.090 Rules of *directorcity manager*.

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

16.75.100 Enforcement.

A. The *directorcity manager* is authorized to enforce the provisions of this title, the ordinances and resolutions codified in it, and any rules and regulations promulgated thereunder pursuant to the enforcement and penalty provisions of Chapter [1.20](#) KMC.

~~B. Any person found to have willfully engaged in activities on the *shorelines of the State* in violation of this title or Chapter [90.58](#) RCW or in violation of the *Kenmore Shoreline Master Program*, or rules or regulations adopted pursuant thereto, is guilty of a gross misdemeanor, and shall be punished by a fine of not less than \$25.00 nor more than \$1,000, or by imprisonment for not more than 90 days, or by both fines and imprisonment; provided, that the fine for the third and all subsequent violations in any five-year period shall be not less than \$500.00 nor more than \$10,000.~~

CB. The *directorcity manager* shall bring such injunctive, declaratory, or other actions as are necessary to ensure that no uses are made of the *shorelines of the State* in conflict with the provisions of this title or Chapter [90.58](#) RCW or in conflict with the *Shoreline Master Program*, or rules or regulations adopted pursuant thereto, and to otherwise enforce the provisions of this chapter and Chapter [90.58](#) RCW.

DC. Any person subject to the regulatory provisions of this title who violates any provision of this title or the provisions of a permit issued pursuant thereto shall be liable for all damage to public or private

property arising from such violation, including the cost of restoring the affected area, within a reasonable time, to its condition prior to such violation. The ~~director~~*city manager* shall bring suit for damages under this subsection on behalf of the City. Private persons shall have the right to bring suit for damages under this subsection on their own behalf and on behalf of all persons similarly situated. The court on its discretion may award attorney's fees and costs of the suit to the prevailing party.

16.75.110 Shoreline environment redesignation.

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

B. A *redesignation* initiated by an *applicant* shall be made on forms and processed in a manner prescribed in KMC [16.75.120](#). A *redesignation* initiated by the *city* council shall follow the process in KMC [16.75.130](#).

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

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

16.75.120 Redesignation applications.

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

1. *Applicant* information, including signature, telephone number and address;
2. The *applicant's* interest in the property, such as owner, buyer or consultant;
3. Property owner concurrence, including signature, telephone number and address;
4. A property description, including parcel number, property street address and nearest cross street;
5. A county assessor's map outlining the subject property;

6. Related or previous permit activity;
7. A description of the proposed *shorelines redesignation*;
8. A mitigation plan providing for significant enhancement of the first 100 feet adjacent to the shoreline and improved habitat for species declared as endangered or threatened under the Endangered Species Act, to the extent that the impacts of *development* can be determined at the time of the proposed shoreline *redesignation*; and
9. A discussion of how the proposed shoreline *redesignation* meets the criteria in KMC [16.75.160](#).

B. The **hearing** examiner shall make a recommendation to the **city** council based on the criteria for review in KMC [16.75.160](#).

16.75.130 Redesignation initiated by motion.

A. A **city council** motion initiating a shoreline *redesignation*, as described in KMC [16.75.110\(B\)](#), must be accompanied by the following information:

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

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

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

funds. The city council may consider the supplemental appropriation ordinance concurrently with the proposed motion referring the *shorelines redesignation* proposal to the hearing examiner.

D. The departmental report and recommendation regarding an application for a site-specific *redesignation* initiated by city council motion shall be forwarded to the hearing examiner for consideration.

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

16.75.140 Frequency of consideration of shoreline redesignations.

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

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

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

16.75.160 Criteria for hearing examiner review.

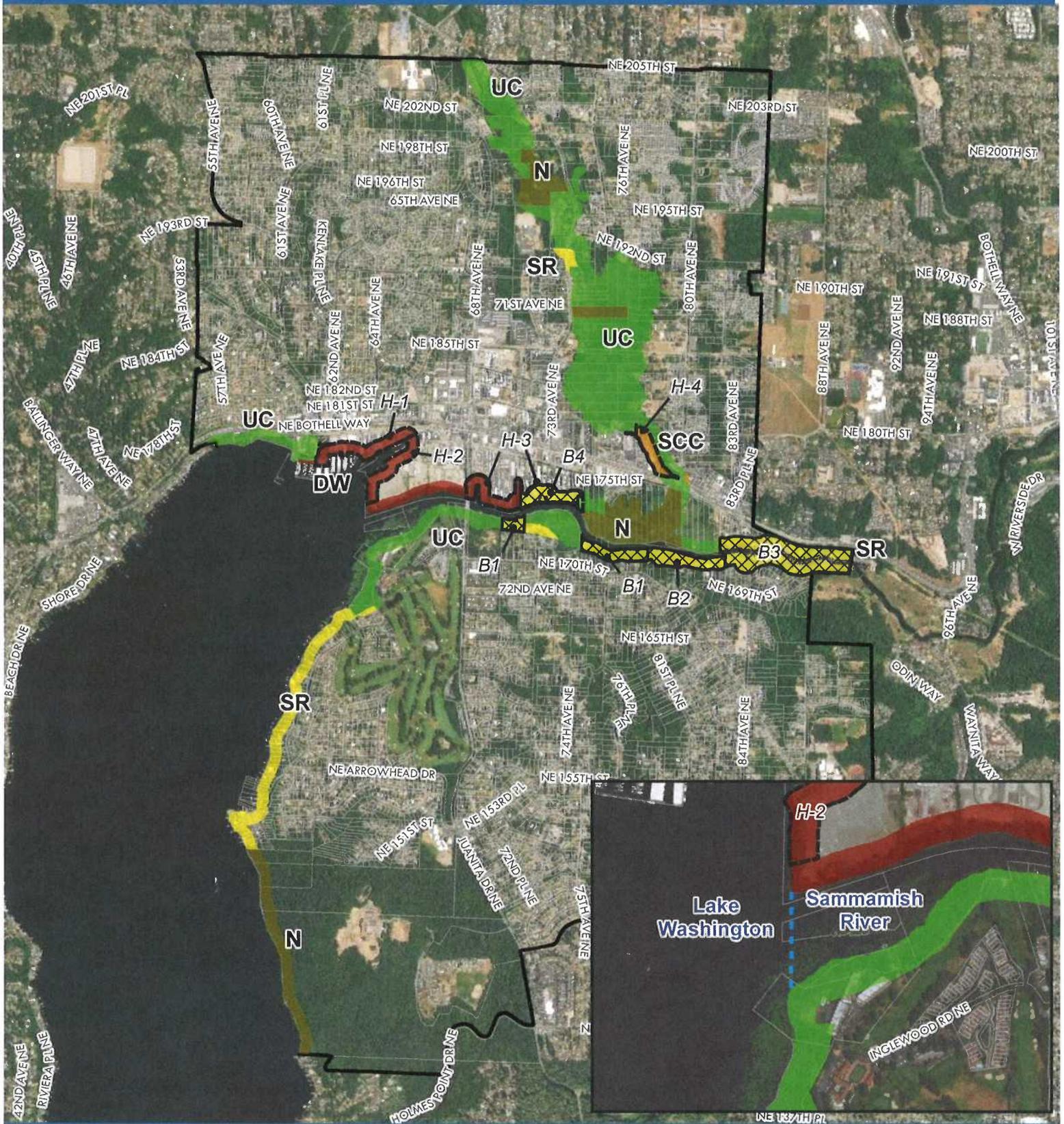
A *shorelines redesignation* referred to the hearing examiner for a public hearing shall be reviewed based upon the requirements of comprehensive plan policies and City *shorelines* management goals and objectives and the following additional standards:

A. The proposed change implements and supports the goals of the State Shorelines Management Act and City of Kenmore *Shoreline Master Program* requested;

B. The impacts of *development* allowed by the proposed change will not permanently impair any habitat critical to endangered or threatened species; and

C. The impacts of *development* allowed by the proposed change are adequately addressed in a mitigation plan providing significant enhancement of the first 100 feet adjacent to the stream and improved habitat for species declared as endangered or threatened under the Endangered Species Act, to the extent those impacts may be determinable at the time of the *shorelines redesignation*. A full mitigation plan shall accompany each application, as provided in KMC 16.75.120 and 16.75.130.

Shoreline Environment Designations Map

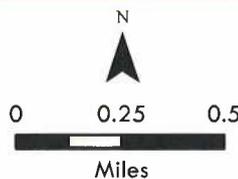


IMP Environment Designations

- Downtown Waterfront (DW)
- Swamp Creek Commercial (SCC)
- Natural (N)
- Shoreline Residential (SR)
- Urban Conservancy (UC)

- Kenmore City Boundary
- Kenmore Parcels

*All areas waterward of the Ordinary High Water Mark on the Sammamish River and Lake Washington have an Aquatic environment designation.



Sources: City of Kenmore, 2018.

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Map Date: March 2019