

Title 16
ENVIRONMENT

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Division I. Shoreline Management

Chapter 16.05

SHORELINE MANAGEMENT CODE – PURPOSE AND SCOPE

Sections:

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16.05.010 Purpose.

A. The purpose of this title is to implement the Shoreline Management Act of 1971 and to provide for the regulation of development which impacts those areas of the city of Kenmore under the jurisdiction of the Shoreline Management Act consistent with Chapter 173-26 WAC and the goals and policies of the city of Kenmore comprehensive plan shoreline 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. [Ord. 12-0334 § 3 (Exh. 1).]

16.05.020 Citation.

This title shall be known as “the shoreline management code.” [Ord. 12-0334 § 3 (Exh. 1).]

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 adjacent to water bodies or wetlands under the jurisdiction of the Shoreline Management Act shall be evalu-

ated in terms of the goals and policies of the city of Kenmore comprehensive plan shoreline subelement. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.05.060 Relationship to other Kenmore programs.

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

1. Building permit;
2. Right-of-way construction permit;
3. Short subdivision approval;
4. Grading permit;
5. Site plan approval;
6. Access permit;
7. Trail permit;
8. State flood control zone permit;
9. Zoning variance;
10. Conditional use permit;
11. Comprehensive plan amendment or addition;
12. Zone reclassification;
13. Special use permit;
14. Subdivision approval;
15. Mobile home park permit;
16. Mobile home permit;
17. Recreational vehicle park permit; and
18. Site plan review permit.

B. The following sections of the Kenmore Municipal Code are adopted and incorporated by reference as part of the Shoreline Master Program¹:

1. Chapter 1.20 KMC – Code Enforcement.
2. 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).

1. Certain critical area code sections from Chapter 18.55 KMC – as they existed at the time of Shoreline Master Program approval by the Washington Department of Ecology in 2012 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.

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

Chapter 16.10**DEFINITIONS****Sections:**

- 16.10.010 Applicability of RCW and WAC definitions.
- 16.10.020 Applicant.
- 16.10.030 Access, public.
- 16.10.032 Accessory structure.
- 16.10.035 Accessory use.
- 16.10.040 Aquaculture.
- 16.10.050 Associated wetlands.
- 16.10.070 Backfill.
- 16.10.080 Berm.
- 16.10.090 Breakwater.
- 16.10.100 Bulkhead.
- 16.10.105 Channel migration zone.
- 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.
- 16.10.180 Fill.
- 16.10.185 Fish and wildlife habitat area of importance.
- 16.10.190 Float.
- 16.10.200 Floating home.
- 16.10.210 Floodplain.
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- 16.10.230 Grading.
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- 16.10.310 No net loss.
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- 16.10.330 Normal protective bulkhead common to single-family residences.
- 16.10.340 Open space, required.
- 16.10.350 Ordinary high water mark.
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- 16.10.445 Shoreline buffer.
- 16.10.450 Shorelands.
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- 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.
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- 16.10.550 Significant vegetation removal.
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- 16.10.570 Substantial development.
- 16.10.580 Utilities and utility facilities.
- 16.10.590 Water-dependent use.
- 16.10.600 Water-related use.
- 16.10.610 Water-enjoyment use.
- 16.10.620 Water-oriented 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. [Ord. 12-0334 § 3 (Exh. 1).]
- 16.10.020 Applicant.**
- “Applicant” means a property owner or a public agency or public or private utility which owns a right-of-way or other easement or has been adjudicated the right to such an easement pursuant to RCW 8.12.090, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.032 Accessory structure.

"Accessory structure" means a structure that is incidental to the principal structure. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.035 Accessory use.

"Accessory use" means a use that is incidental to a principal use. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.070 Backfill.

"Backfill" means the placement of earth material behind a retaining wall or structure. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.105 Channel migration zone.

"Channel migration zone" means the area within which a river channel is likely to move over a period of time, and is therefore subject to risk due to stream bank destabilization, rapid stream incision, stream bank erosion, and shifts in the location of stream channels. Channel relocation and stream meander areas as defined at KMC 18.55.750 are channel migration zones. [Ord. 12-0334 § 3 (Exh. 1).]

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, automo-

tive 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, live-stock sales, and food vendors. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.110 Critical areas.

“Critical areas” means any of the following areas or ecosystems: aquifer recharge areas, fish and wildlife habitat areas of importance, frequently flooded areas, geologically hazardous areas, streams, and wetlands, as defined in Chapter 36.70A RCW and this chapter. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.120 Department.

“Department” means the department of community development. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.130 Development.

“Development” is defined in Chapter 90.58 RCW as now or hereafter amended. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.140 Director.

“Director” means the director of the department of community development or an authorized designee. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.150 Dock.

“Dock” means all platform structures or anchored devices in or floating upon water bodies to provide moorage for pleasure craft or landing for

water-dependent recreation including, but not limited to, floats, swim floats, float plane moorages, and water ski jumps. Excluded are launch ramps. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.185 Fish and wildlife habitat area of importance.

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

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

B. Heron rookeries or active nesting trees; or

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

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

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

Swamp Creek, the Sammamish River, and Lake Washington are all fish and wildlife habitat areas of importance. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.190 Float.

"Float" means a structure or device which is not a breakwater and which is moored, anchored, or otherwise secured in the waters of the city of Kenmore and which is not connected to the shoreline. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.210 Floodplain.

"Floodplain" is synonymous with "100-year floodplain" and means the land area that may be inundated by the base flood of a river or stream. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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 instruc-

tion school, K-12 educational institutions (public or private), and colleges/universities. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.260 Height.

"Height" shall be measured from the average finished grade to the highest point of the roof. The average finished grade shall be determined by first delineating the smallest square or rectangle which can enclose the building and then averaging the elevations taken at the midpoint of each side of the square or rectangle; provided, that the measured elevations do not include berms. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.275 Live-aboard.

"Live-aboard" means a licensed vessel that is used as a primary residence. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.280 Marina.

"Marina" means a marine retail sales and service use, in which a system of piers, buoys, or floats is used to provide moorage, primarily for pleasure craft, for sale or rent, usually on a monthly or yearly basis. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.310 No net loss.

Per WAC 173-26-201(2)(c), the concept of “no net loss” of shoreline ecological functions means that the Kenmore Shoreline Master Program provisions shall, to the greatest extent feasible, protect existing shoreline ecological processes and functions and avoid new adverse impacts to ecological processes and functions. The term “net,” as used herein, recognizes that any development has potential for short-term or long-term impacts and that through application of appropriate development standards, avoidance of impacts and use of mitigation measures, those impacts will not diminish the shoreline resources and values as they currently exist. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.320 Non-water-oriented uses.

“Non-water-oriented uses” means those uses that are not water-dependent, water-related or water-enjoyment. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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.” [Ord. 12-0334 § 3 (Exh. 1).]

16.10.390 Redesignation.

“Redesignation” means a change in the shoreline environment designation by the procedures provided in Chapter 16.75 KMC. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.410 Riprap.

“Riprap” means hard angular quarry rock used for revetments or other bank stabilization projects. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.420 Sediment.

“Sediment” means material settled from suspension in a liquid medium. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.430 Shall.

“Shall” means a mandate; the action must be done. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.450 Shorelands.

“Shorelands” or “shoreland areas” means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams and lakes that are subject to the provisions of Chapter 90.58 RCW. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.510 Shorelines.

"Shorelines" means lakes greater than 20 acres and rivers and streams with a minimum of 20 cubic feet per second mean annual flow, including the entire water body waterward from the ordinary high water mark from its centerline or point, all water below the surface and associated shorelands. Kenmore shorelines are shown on the adopted map

entitled Kenmore Shoreline Environment Designations (attached to Ord. 12-0334 as Exhibit 2, and incorporated by reference). If there is a discrepancy between the map and the criteria established in this section, the criteria shall constitute the official Kenmore shoreline jurisdiction. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.600 Water-related use.

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

A. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

B. The use provides a necessary service supportive of the water-dependent uses, and the proximity of the use to its customers makes its services less expensive and/or more convenient. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.610 Water-enjoyment use.

“Water-enjoyment use” means a recreation use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public’s ability to enjoy the physical and aesthetic qualities of the shoreline. The use must be open to the general public. [Ord. 12-0334 § 3 (Exh. 1).]

16.10.620 Water-oriented use.

“Water-oriented use” means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.15.020 Names of shoreline environment designations.

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

- A. Downtown Waterfront Environment.
- B. Shoreline Residential Environment.
- C. Urban Conservancy Environment.
- D. Natural Environment.
- E. Aquatic Environment. [Ord. 12-0334 § 3 (Exh. 1).]

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 designations.

Any parcel of land included within the shoreline jurisdiction without a shoreline environment designation shall be considered Urban Conservancy Environment. [Ord. 12-0334 § 3 (Exh. 1).]

*Code reviser's note: The Shoreline Environment Designations Map is adopted by Section 4 of Ord. 12-0334, attached as Exhibit 2, and incorporated into KMC Title 16 by reference.

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.20.020 Designation criteria.

The shoreline along the contiguous downtown waterfront that is zoned regional business in KMC Title 18 and does not meet the requirement for Urban Conservancy or Shoreline Residential designation is to be assigned the Downtown Waterfront Environment designation. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.25.020 Designation criteria.

The Shoreline Residential Environment designation should be assigned to shoreline areas if they are predominantly developed for single-family or multifamily residential uses or are planned and platted for residential development, and the shoreline areas do not meet the criteria for other designations. [Ord. 12-0334 § 3 (Exh. 1).]

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, including areas below the ordinary high water mark in Swamp Creek, while allowing a variety of compatible uses. [Ord. 12-0334 § 3 (Exh. 1).]

16.30.020 Designation criteria.

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

A. The shoreline includes wetlands or exceptional riparian corridor that should not be more intensively developed;

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

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

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

E. The shoreline has potential for development that is compatible with ecological restoration. [Ord. 12-0334 § 3 (Exh. 1).]

Chapter 16.35**NATURAL ENVIRONMENT****Sections:**

16.35.010 Purpose.

16.35.020 Designation criteria.

16.35.010 Purpose.

The purpose of the Natural Environment is to protect public shoreline areas that include ecologically intact or minimally altered shorelines. Only low intensity uses are to be allowed in this environment to maintain existing ecological processes and functions. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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; provided, that the chemicals are applied by a licensed pesticide applicator and approved for aquatic use.

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

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

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

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

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

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

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

12. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization mea-

asures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.

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

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

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

a. Known Historic Properties.

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

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

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

b. Inadvertent Discovery.

(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 arti-

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

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

ton 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. [Ord. 12-0334 § 3 (Exh. 1).]

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.
- 16.50.060 Public access.
- 16.50.070 Recreation.
- 16.50.080 Utility facilities.
- 16.50.085 Transportation uses.
- 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 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.

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.50.020 Interpretation of shoreline use table.

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

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

1. If the letter "P" appears in the box at the intersection of the column and the row, the use may be permitted within the shoreline environment if the underlying zoning also allows the use.

2. If the letter "C" appears in the box at the intersection of the column and the row, the use may be allowed within the shoreline environment subject to the shoreline conditional use review procedures specified in 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.

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

5. If more than one letter-number combination appears in the box at the intersection of the column and the row, the use is allowed within that shoreline environment subject to different sets of limitations or criteria depending on the review process indicated by the letter, the specific development criteria indicated in the development condition with the corresponding number immediately following the table, and only if KMC Title 18 allows the use. [Ord. 12-0334 § 3 (Exh. 1).]

16.50.030 Shoreline use table and conditions.**A. Shoreline Use Table.****Shoreline Use Table**

KEY P – Permitted Use C – Shoreline Conditional Use	DOWNTOWN WATERFRONT	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
Aquaculture					
Aquaculture uses	X	X	X	X	C1
Commercial Development					
General services	P2, X2	X	P2, 3, X2	X	C2
Business services	P2, X2	X	P2, 3, X2	X	C2
Retail	P2, X2	X	P2, 3, X2	X	C2
Mining	X	X	X	X	X
Principal use parking	X	X	X	X	X
Government Services					
Government services	P4	P4	P4	P4	C4
Manufacturing					
Manufacturing uses	P2	X	X	X	X
Park/Recreation					
Recreational/cultural	P5	P6	P6	P7	C5
Marinas (recreational boat moorage)	P8	X	P	X	P
Public boat launch	P	X	P, C9	X	P
Golf course	X	X	C	X	X
Residential Development					
Dwelling units, single detached	X	P	P	C	P10
Dwelling, multiple-family	P2	P	P2	X	X
Mobile home park	X	C	X	X	X
Group residences	P2	P	P	C	X
Accessory uses	P	P	P	C	X
Temporary lodging	P2	X	X	X	X
Regional Land Uses					
Airport/heliport or helistop	C, X17	X	X	X	C, X17
Ferry terminal	C	X	X	X	C
Highway and street, except for in-water uses	C11	C11	C11	C11	C11
Commuter parking	C16	X	X	X	X
Wastewater treatment facility and municipal water production, except for in-water uses	C8, 12	C8, 12	X	X	X

Shoreline Use Table (Continued)

KEY P – Permitted Use C – Shoreline Conditional Use	DOWNTOWN WATERFRONT	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
Regional stormwater management facilities	P13	P13	P13	P13	X
Utilities					
Utility facility, except for in-water uses	P13	P13	P13	P13	X
In-Water Structural Uses					
In-water wastewater treatment facility, in-water municipal water production facility	X	C12	C12	C12	C12
In-water utility facilities	X	C13	C13	C13	C13
In-water and overwater highway and street facilities	X	C11, 14	C11, 14	C11, 14	C11, 14
In-water fish and wildlife management, except aquaculture	X	C	C	C	C
Signs					
Signs	P15	P15	P15	P15	P15

B. Shoreline Use Criteria (Footnotes to Shoreline Use Table 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 shore-

line 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 SMP and where the proposed development would substantially increase the width and enhance the habitat quality of the buffer along Swamp Creek;

b. The non-water-oriented uses are located on land; and

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

(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.

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

5. In Downtown Waterfront and Aquatic Environments, water-oriented recreational uses including parks and public access trails and facilities may be allowed; provided, that in the Downtown Waterfront minor non-water-oriented accessory uses such as children's play equipment, picnic tables, or outdoor exercise course equipment may also be allowed if they meet the other requirements of this chapter. All other recreational uses shall be prohibited.

6. In Urban Conservancy and Shoreline Residential Environments, parks and trails shall be allowed. All other recreational uses shall be prohibited.

7. In the Natural Environment, water-oriented passive and low-impact recreational uses shall be allowed. All other recreational uses shall be prohibited.

8. Wastewater treatment facilities, and municipal water production uses, except for in-water uses, shall be allowed only on Lake Washington shorelines. The listed wastewater treatment

facilities, municipal water production facilities, and marinas are prohibited on shorelines of the Sammamish River and Swamp Creek.

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

10. New overwater residences are prohibited except for live-aboards. They may be allowed; provided, that:

a. They are for single-family use only;

b. They are located in a marina that provides shower and toilet facilities on land and there are no sewage discharges to the water;

c. Live-aboards do not exceed 10 percent of the total slips in the marina;

d. They are owner-occupied vessels; and

e. There are on-shore support services in proximity to the live-aboards.

11. New highway and street construction is allowed only if:

a. There is no feasible alternate location;

b. Pedestrian, bicycle and public transport needs are addressed; and

c. When located in the Natural Environment, the use is low-intensity transportation infrastructure; parking facilities are prohibited in the Natural Environment unless supporting a water-dependent use.

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

13. Utility facilities may be located within the shoreline jurisdiction if there is no feasible alternate location, the alternative would result in unreasonable and disproportionate cost, or the facility is necessary to serve adjacent shoreline uses.

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

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

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

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

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

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

17. Helistops and heliports are prohibited in all environments.

C. Accessory Uses.

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

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

3. Unless specifically stated otherwise in the regulations for the applicable environment, accessory uses that are non-water-dependent and non-water-related, even if accessory to water-dependent or water-related uses, shall be permitted over water according to subsection A of this section only if either:

a. The over-water location is necessary for the operation of the water-dependent or water-related use; or

b. The lot has a depth of less than 50 feet of dry land.

4. Parking shall not be permitted over water unless it is accessory to a water-dependent or water-related use located on a lot with a depth of

less than 50 feet of dry land and the director determines that adequate on-site or off-site dry land parking within 800 feet is not reasonably available.

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

6. Accessory uses shall be located on the same lot as the principal use; provided, that when the accessory use is also permitted as a principal use in the shoreline environment applicable to an adjacent lot, the accessory use may be located on that adjacent lot. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.50.050 Public boat launching facilities and marinas.

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

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

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

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

D. The marina shall be sited and designed to protect rights of navigation;

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

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

G. Self-service sewage pumpout facilities or the best available method of disposing of sewage wastes and appropriate disposal facilities for bilge wastes shall be provided at marinas having in excess of 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. [Ord. 12-0334 § 3 (Exh. 1).]

16.50.060 Public access.

Public access shall be required for public projects and development on public lands (KMC 16.45.010(B)(16)), commercial and manufacturing uses (KMC 16.50.030(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. Where public access is required, it shall:

1. Connect to other public and private public access and recreation facilities on adjacent parcels along Lake Washington and the Sammamish River shorelines whenever feasible;

2. Be sited to ensure public safety;

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

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

a. View points;

b. Places to congregate in proportion to the scale of the development;

c. Benches and picnic tables;

d. Beach or water access for boats; and

e. Pathways for pedestrians and bicycles.

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

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

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

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

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

1. Short plats of four or fewer lots;

2. Where public access is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment; or

3. Where constitutional or other legal limitations apply. [Ord. 12-0334 § 3 (Exh. 1).]

16.50.070 Recreation.

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

1. The construction of swimming facilities, docks, piers, moorages, buoys, floats, and launching facilities waterward of the ordinary high water

mark shall be governed by the regulations relating to docks, piers, moorage, buoys, floats, or launching facility construction in KMC 16.55.050.

2. Swimming areas shall be separated from boat launch areas and marinas, to the maximum extent practical.

3. New or expanded swimming facilities shall only be permitted if there is an ongoing water quality testing program guided by a monitoring plan approved by the director to ensure public safety.

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

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

1. Vehicular access, parking and restrooms should be located outside the shoreline jurisdiction; if infeasible to locate outside of the shoreline jurisdiction, such facilities shall be located as far from the shoreline as is feasible;

2. Trails should be designed primarily for pedestrian access, including access by wheelchair where appropriate, and should be no larger than is necessary to accommodate expected pedestrian traffic;

3. Removal of vegetation for recreational uses shall be the minimum necessary to provide pedestrian access and limited visual access to the shoreline;

4. Public contact with unique and fragile areas shall be permitted where possible without destroying the natural character of the area; and

5. Viewing, studying, and recording water and nature may be accommodated by platforms, benches or shelters, consistent with public safety and security. [Ord. 12-0334 § 3 (Exh. 1).]

16.50.080 Utility facilities.

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

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

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

C. Water intakes shall comply with Washington Department 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. [Ord. 12-0334 § 3 (Exh. 1).]

16.50.085 Transportation uses.

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

B. Bridges, when necessary, should span open water and floodways.

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

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

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

F. Lighting from parking areas shall be screened from illuminating fish and wildlife habitat areas and their buffers; provided, that lighting necessary for safe operation of a permitted water-dependent use may be allowed, but should be screened to the extent possible from illuminating fish and wildlife habitat areas and their buffers. [Ord. 12-0334 § 3 (Exh. 1).]

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 a dock or beach may be allowed in the vegetation conservation areas described in Chapter 16.60 KMC, but shall be limited to the minimum necessary to provide pedestrian access.

6. Private boat ramps serving a single residence shall not be located in vegetation conservation areas described in Chapter 16.60 KMC. [Ord. 12-0334 § 3 (Exh. 1).]

16.50.100 Channel migration zone on Swamp Creek.

A. The channel migration zone shall include:

1. The 500-year floodplain of Swamp Creek within shoreline jurisdiction; and

2. All area within 112.5 feet of Swamp Creek.

B. Within the channel migration zone:

1. There shall be no subdivision of land within the channel migration zone except for the purpose of creating permanent, 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. [Ord. 12-0334 § 3 (Exh. 1).]

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 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. [Ord. 12-0334 § 3 (Exh. 1).]

16.55.020 Interpretation of shoreline modifications table.

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

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

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

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

D. If more than one letter-number combination appears in the box at the intersection of the column and the row, the modification is allowed within that shoreline environment subject to different sets of limitations or conditions depending on the review process indicated by the letter, the specific development conditions indicated in the development condition with the corresponding number in KMC 16.55.030(B), and only if the underlying zoning allows the modification. [Ord. 12-0334 § 3 (Exh. 1).]

16.55.030 Shoreline modifications table and conditions.

A. Shoreline Modifications Table.

Shoreline Modifications Table

KEY P – Permitted Modification C – Shoreline Conditional Use Required Shoreline modifications are allowed only if the underlying zoning allows the modification	DOWNTOWN WATERFRONT	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
Shoreline stabilization					
Shoreline stabilization, not including flood protection facilities	P1	P1	C1	C1	C1, P1

Shoreline Modifications Table (Continued)

KEY P – Permitted Modification C – Shoreline Conditional Use Required Shoreline modifications are allowed only if the underlying zoning allows the modification	DOWNTOWN WATERFRONT	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
Repair or maintenance of shoreline stabilization facili- ties	P2	P2	P2	P2	P2
Flood protection facilities	P3	P3	P3	C3	P3
Piers and docks					
Docks, piers, moorage, buoys, floats or launching facilities	P4	P4	C4	C4	C4, P4
Fill					
Filling	P5, C5	P5, C5	P5, C5	C5	C5
Breakwaters, jetties, groins, and weirs					
Breakwaters, jetties, groins and weirs	C6	C6	C6	C6	C6
Grading and dredging					
Grading, dredging, dredge material disposal	P5, C5	P5, C5	P5, C5	C5	C5
Shoreline habitat and natu- ral systems enhancement projects					
Habitat and natural systems enhancement projects	P7	P7	P7	P7	P7

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. Docks, piers, moorage, buoys, floats or launching facilities shall meet the standards in KMC 16.55.050 and are allowed only for:

- a. Water-dependent uses;
- b. Public access;
- c. Single detached residential units;
- d. Joint use facilities for multiple-family dwelling unit developments; or

e. Water-related or water-enjoyment uses only as part of a mixed use development and only if auxiliary to and in support of a water-dependent use.

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

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

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

7. Shoreline habitat and natural systems enhancement projects may include shoreline modifications of vegetation, removal of 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. [Ord. 12-0334 § 3 (Exh. 1).]

16.55.040 Shoreline stabilization.

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

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

1. A geotechnical analysis demonstrates that erosion from waves or currents is imminently threatening and that damage is expected to occur within three years if the shoreline stabilization is not constructed;

2. The erosion rate exceeds that which would normally occur in a natural condition;

3. The erosion is not caused by upland conditions on the project site;

4. The proposed shoreline stabilization is the least hardened solution that is feasible to protect the structures or improvements, including consideration of 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 was installed prior to January 1, 1992, and removal of the old structure would result in greater impact on ecological functions.

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

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

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

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

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

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

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

J. Shoreline stabilization shall comply with the Integrated Stream Protection Guidelines (Washington Departments of Fish and Wildlife, Ecology, and Transportation, 2003) and shall be designed to allow for appropriate public access to the shoreline. [Ord. 12-0334 § 3 (Exh. 1).]

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

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

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

1. Docks, piers, moorage, buoys, floats or launching facilities shall not exceed the minimum size necessary to serve the use for which they are designed (see 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.

10. Existing habitat features (e.g., large and small woody debris, substrate material, etc.) shall be retained and new or expanded moorage facilities placed to avoid disturbance of such features.

11. Invasive aquatic weeds may be removed with nonchemical means only, except that milfoil may be removed using chemicals; provided, that the chemicals are applied by a licensed applicator and approved for aquatic use.

12. In order to mitigate the impacts of new or expanded commercial moorage facilities, the applicant shall plant emergent vegetation (if site-appropriate) and a buffer of vegetation a minimum of 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.

13. No private moorage or other 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.

14. Proposals to repair existing legally established moorage facilities 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.

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

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

(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;

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

(7) 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

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

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

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

17. Buoys shall meet the following conditions:

a. Buoys shall not impede navigation;

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

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

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

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

management plan to determine whether the project is adequately protective. [Ord. 12-0334 § 3 (Exh. 1).]

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;

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. [Ord. 12-0334 § 3 (Exh. 1).]

Chapter 16.60

VEGETATION CONSERVATION

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

C. 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.

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

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

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

G. When considering compensatory habitat enhancement as mitigation for impacts from new structures, such as when a reduced buffer or a non-

water-dependent use is requested, the enhancement should be proportional to the degree of impact of the new structure on shoreline ecological functions, and take into account the degree to which the existing buffer has already been compromised. Enhancement should focus on restoring ecological functions that are most critical and that have been most diminished in the Kenmore shoreline. In approving any compensatory habitat enhancement plan, the director shall consider the changes in surface water runoff rates and water quality (such as through increased impervious area), habitat structure (such as loss or alteration of vegetation), and habitat quality (such as from lighting, noise, or activities) that the project would cause. Enhancements should generally focus on offsetting these impacts but may focus on restoring other critical ecological functions in the shoreline that have been lost or diminished (such as placement of large woody debris in water or restoring shallow water habitat). The director may determine whether an enhancement that provides a broader benefit may be substituted for one that would offset the impacts of an individual project. The director may deny a request to allow intrusion into a buffer or for development of a non-water-dependent use if the enhancement proposed does not fully mitigate the impacts of the project or provide a sufficient broader benefit. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

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 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.

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

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

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

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

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

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

Wetland Mitigation Ratios

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

[Ord. 12-0334 § 3 (Exh. 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	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
Standards					
Shoreline Buffers from OHWM on Lake Washington					
Water-dependent commercial development	20 ft (1)	Z	115 ft (1)	Z	0
Water-related commercial development	20 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
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 Density and Dimensions Table (Continued)

	DOWNTOWN WATERFRONT	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC
Building Setback from the Shoreline Buffer					
Single-family uses	15 ft	25 ft (2)	15 ft	15 ft	Z
All uses except single-family uses	15 ft	15 ft	15 ft	15 ft	Z
Building Height					
Base height	35 ft	35 ft	35 ft	30 ft	35 ft
Additional height allowed when permitted in underlying zoning	Yes (7)	Yes (7)	Yes (7)	No	No

B. Development Conditions (Footnotes to Shoreline Density and Dimensions Table in Sub-section 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. The director may allow non-water-dependent uses within the shoreline buffer along the inner harbor portion of the Downtown Waterfront area at the northeast end of Lake Washington, only if:

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

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

c. Mitigation is provided consistent with the requirements in KMC 18.55.190 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 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(G).

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.

4. New public access improvements shall comply with the requirements of Chapter 18.55 KMC; provided, that new public access improvements may be allowed within critical areas, or shoreline or critical area buffers, if impacts are mitigated consistent with the requirements in KMC 18.55.190 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.

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

5. Underground utilities are allowed in the shoreline buffer.

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

7. Additional height may be permitted under the following conditions:

a. The structures would not obstruct the view of a substantial number of residences; and

b. The structures are located in an area designated on Map 1, Shoreline Environment Designations (attached to Ord. 12-0334 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 outside of the floodway in effect at the time of permit application; and

f. Not be within a wetland or wetland buffer as regulated by Chapter 18.55 KMC.

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

The burden to demonstrate that the proposal meets the criteria of this section is on the applicant. The director may require technical studies as necessary to demonstrate compliance. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

Chapter 16.75**PROCEDURES**

Sections:

16.75.005 Additional administrative procedures.

16.75.010 Substantial development – Permit required – Exemption.

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.

16.75.050 Alteration or reconstruction of nonconforming use or development.

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.

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.

16.75.005 Additional administrative procedures.*

In addition to the requirements of Chapter 19.25 KMC, the following administrative procedures apply to development in the shoreline jurisdiction. [Ord. 12-0334 § 3 (Exh. 1).]

*Code reviser's note: The code section number for this text has been assigned editorially.

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

tion shall conform to the Shoreline Master Program whether or not the development requires a permit from the city of Kenmore.

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

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

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

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

E. Conditions of approval may be attached to the approval of substantial development permits, statements of exemptions, or exempted developments as necessary to ensure consistency of the project with the city of Kenmore Shoreline Master Program. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.025 Permits – Reasonable accommodation.

The Federal Fair Housing Act requires that reasonable accommodations be made in rules, policies, practices, or services, when such

accommodations may be necessary to afford handicapped people equal opportunity to use and enjoy a dwelling. The director is therefore authorized to make accommodations in the provisions of this title as applied to dwellings occupied or to be occupied by handicapped persons as defined in the Federal Fair Housing Act, when the director determines that such accommodations reasonably may be necessary in order to comply with such Act. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.030 Permits – Variance.

A. The director is authorized to grant a variance from the performance standards of the city of Kenmore Shoreline Master Program only under the conditions enumerated in WAC 173-27-170 (Review Criteria for Variance Permits). Shoreline variance permits are also subject to review and approval by the 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. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.040 Permits – Conditional use.

A. The director is authorized to issue shoreline conditional use permits only under the conditions enumerated in RCW 90.58.140 and 90.58.143 and WAC 173-27-160. 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 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. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.050 Alteration or reconstruction of nonconforming use or development.

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

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

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

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

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

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

1. The existing nonconformance results from noncompliance with the standards in KMC 16.55.050(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 to more than the existing condition or by 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 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. [Ord. 12-0334 § 3 (Exh. 1).]

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 and shall be the final decision of the city with regard to shoreline management. [Ord. 12-0334 § 3 (Exh. 1).]

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

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

requirement to post a performance bond assuring compliance with permit requirements, terms and conditions.

B. Issuance of a substantial development permit does not constitute approval pursuant to any other federal, state or city laws or regulations. [Ord. 12-0334 § 3 (Exh. 1).]

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

C. When a hearing and decision 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 receipt as defined in RCW 90.58.140 for the purposes of appeal as provided in RCW 90.50.140. However, no development may occur until the city council has taken final action on the examiner's recommendation required by KMC Titles 18 and/or 19. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.090 Rules of director.

The director is authorized to adopt such rules as are necessary and appropriate to implement this chapter. The director may prepare and require the use of such forms as are necessary to its administration. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.100 Enforcement.

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

vided, 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.

C. The director shall bring such injunctive, declaratory, or other actions as are necessary to ensure that no uses are made of the shorelines of the state in conflict with the provisions of this title or 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.

D. Any person subject to the regulatory provisions of this title who violates any provision of this title or the provisions of a permit issued pursuant thereto shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area, within a reasonable time, to its condition prior to such violation. The director shall bring suit for damages under this subsection on behalf of the city. Private persons shall have the right to bring suit for damages under this subsection on their own behalf and on behalf of all persons similarly situated. The court on its discretion may award attorney's fees and costs of the suit to the prevailing party. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.110 Shoreline environment redesignation.

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

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

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

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

procedures for a zone reclassification as provided in Chapter 19.30 KMC. [Ord. 12-0334 § 3 (Exh. 1).]

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 examiner shall make a recommendation to the council based on the criteria for review in KMC 16.75.160. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.130 Redesignation initiated by motion.

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

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

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

D. A site-specific redesignation initiated by motion shall follow the procedures in 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 examiner shall make a recommendation to the council based on the criteria for review in KMC 16.75.160. [Ord. 12-0334 § 3 (Exh. 1).]

16.75.140 Frequency of consideration of shoreline redesignations.

A shorelines redesignation may not be initiated unless at least three years have elapsed since the council's prior consideration of the current designation for the property. The city manager or the council may waive this time limit if the proponent establishes that there exists either an obvious technical error or a change in circumstances justifying the need for earlier consideration of the shorelines redesignation. [Ord. 12-0334 § 3 (Exh. 1).]

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 council's consideration of a sub-area or comprehensive shorelines redesignation is a legislative decision that must be determined before and separate from the council's final consideration of a zone reclassification or site-specific shorelines redesignation, which is a quasi-judicial decision. [Ord. 12-0334 § 3 (Exh. 1).]

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. [Ord. 12-0334 § 3 (Exh. 1).]